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A  
LETTER  
TO THE  
NEW-YORK CHAMBER OF COMMERCE  
ON  
“DISCRETIONARY POWER,”

SHEWING  
“IT CANNOT BE ENTRUSTED TO ANY ONE WITHOUT DANGER OF ABUSE,”  
CONSEQUENTLY THE NECESSITY AND PROPRIETY OF THEIR PROMPT IN-  
TERFERENCE TO HAVE THAT “DANGEROUS POWER” TAKEN BY LAW  
FROM THE INSPECTOR GENERAL OF POT AND PEARL ASHES, HIS DEPUTIES,  
AND ALL OTHER INSPECTORS OF “PROVISIONS, PRODUCE, OR MERCHAN-  
DISE,” WHO MAY BE FOUND TO POSSESS IT.

WITH  
AN APPENDIX,  
CONTAINING  
COPIES OF “OFFICIAL” COMMUNICATIONS  
MADE TO THE “CONSTITUTED AUTHORITIES,” ON THE “ABUSE OF THAT  
POWER,” AND OTHER DEFECTS IN THE INSPECTION SYSTEM,  
*Which have been, (in whole or in part)*  
SUPPRESSED BY UNDUE INFLUENCE.

---

BY ROBERT R. HENRY,  
Late one of the Inspectors of Pot and Pearl Ashes for New-York, under the  
Old System of Inspection.

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NEW-YORK:  
PRINTED FOR THE AUTHOR.  
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## PREFACE.

IN nine instances out of ten the application for subscriptions to this pamphlet has been rejected on the principle that they had no interest in the question relative to "DISCRETIONARY Power;" on the contrary, I have stated that it might be exercised *illegally*, if not *fraudulently*, in such a variety of ways, both in public and private life, that almost every person had a direct or indirect interest in the question; for instance, in the accuracy of weights and measures. I will quote a few other cases:

If comptroller MARCY had submitted the communications of the 22d and 23d of October, 1828, to the legislature, the bill accompanying the report of the *joint committee* would have been *rejected*, and the *fifth section* of Hart's law could not have been *palmed* on the members "*not in the secret.*"

If governor VAN BUREN had submitted (with his message) my "official" letter and affidavit of January 1st, 1829, the 5th section would have been *instantly repealed*, and there would have been no necessity for the disgraceful "*journal entries*" of the 5th, 6th, and 9th of February, and 6th and 7th of April, 1829.

Had governor THROOP submitted my communications of the 31st of December and the 1st of January last, the seventy-sixth section and others would have been *amended*, and inspectors made accountable for the proceeds of unclaimed property held or placed directly or indirectly in abeyance.

I might go on and give other instances of the abuse of "*discretionary power*" by the officers of the State and General Government, showing "it cannot be confided to any one without danger of abuse;" but I refer to the documents in the Appendix, which furnish them abundantly—if not, the Albany Daily Advertiser and National Democrat (from the 12th of October, 1823, to the 5th of May 1824) will supply the deficiency.

ROBERT R. HENRY.

*New-York, Sept. 17, 1830.*

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LETTER  
TO THE  
CHAMBER OF COMMERCE  
OF THE  
CITY OF NEW-YORK.

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A DRAFT of an address to the manufacturers and dealers in ashes, (being principally copious extracts from the official documents in the Appendix), was submitted to a person not interested, for the purpose of getting his opinion on the subject of "discretionary powers;" but I find he is a latitudinarian in principle, as he thinks the suppression of "emoluments" (in three official reports to the legislature under the 185th section) to the aggregate of §9387 63, are merely venial offences; the consequence of which opinion has been to induce me to change my plan, and publish the documents entire in an Appendix to this Address.

The person alluded to is much of the same way of thinking with a person I conversed with on the 23d of November, 1827, on the subject, who remarked—"so that the scrapings were taken out of the ashes he bought for shipment or sale, it was nothing to him whether they were accounted for on the copies to the owners or not." When I rather sarcastically asked—"If the inspector will exercise such a 'discretionary power' over the scrapings, (one-thirty-third part of the whole ashes, by the by,) will he not be apt, when opportunity offers, to transfer his attack on the more valuable ashes?" See Counsellor Nameless's letter, (in mine to Governor Throop,) dated 23d November, 1823, to which I beg leave to call particular attention, as he is evidently no common character; also to my official report relative to the abuse of "discretionary power" as to unclaimed ashes, which will be found in the Journals of the Assembly, 20th October, 1828, pages 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, but specially to my letter and affidavit (in the Appendix) dated 1st January, 1829, on which and my letter of 22d a 23d October, 1828, on the same subject, half a column of Governor Van Buren's message of 5th January, 1829, was solely predicated; (which fact can be ascertained by collating the message with the letters and affidavit in the Appendix) on the danger of "discretionary powers," which he justly remarks "cannot be confided to any one without danger of abuse;" and had Governor Van Buren sent the communications to the Legislature as I specially requested the Comptroller to have done with the message, (instead of sending them back to the Comptroller for safe keeping) there would have been no necessity for any of my subsequent reports, memorials, letters, and affidavits being totally suppressed,

and for the mutilation of others which the unwise and impolitic step of the Governor and Comptroller has since rendered indispensably necessary to cover their derelictions from constitutional and official duty. Such acts as have been committed are the natural consequences of deviations from the straight path. Who knows what the first deviation from rectitude may lead to? For examples I refer to the Appendix, which will furnish them abundantly and of a very serious complexion, particularly the "spurious journal entries," and the "specific charges" against the Comptroller, Attorney General, and the Clerks of the Senate and Assembly, in the letter to Governor Throop of 31st December last, in consequence of which it was thought advisable, at Albany, to suppress it totally, although it contained other matter which it was constitutionally his duty to make known instantly to the Legislature. See Letter in Appendix.

In order to show generally the necessity of alterations and amendments to that chapter of blunders, commonly called the Revised Statute, chapter 17, I refer to the copies of suppressed documents in the Appendix, and shall confine myself in this communication principally to the danger of "discretionary powers," because that acted upon by the Chamber of Commerce, the sad mistakes made by the revisers and the legislature in the 76th and other sections, will be rectified as a matter of course, as will the "spurious journal entries," mentioned in the letter to the Governor, and in the memorial and letters dated 19th February and 29th March last to the Speaker and the President of the Senate. See Appendix.

I ask the Chamber respectfully, is there a stockholder in the United States Bank or the Bank of New-York, who would be willing to entrust even to men so distinguished for probity and honour as their presidents, (Nicholas Biddle and Charles Wilkes, Esquires,) with an unlimited discretionary power over their funds, with merely an implied understanding that they would not touch them illegally? Not one of the stockholders, I aver, who reflected the least on consequences, would be so imprudent as to grant either of them such a dangerous and uncontrolled power over their property, which might tempt them to speculate with the money, with a full intention to replace it, but which circumstances might render impossible. The same question I put to the holders of ashes, stored for inspection or otherwise. Are you willing to entrust that dangerous power, (which he possesses, by the by, at the present moment) over your property with Inspector General Seaman, his deputies Messrs. Snow, Brower, and Leonard, and in fact with his clerks and every other person Mr. Seaman may deem it advisable to authorise to sign bills on his behalf? all of whom, as the law now stands, could then legally issue bills with the mystical word "duplicate" written on them, when the clerk who signs bills can legally, under the 76th section, sell them himself if he thinks fit and proper, owing to the 'sad mistakes' made by John Duer, Esq. in omitting, in his 85th section, the prohibitory words, "or persons in the inspectors employ buying or selling ashes, fit or unfit for inspection, directly or indirectly." It is scarcely to be credited, but such is the fact, as will be found by collating the 85th and 76th sections with the 14th section of act 5th April 1822. I applied to Mr. Duer personally on the 23d March, 1829, and subsequently to the constituted authorities at Albany, to have the sad mistakes in the chapter of blunders (which I have specifically pointed out by affidavit) corrected, but it has not been deemed fit or proper to rectify them, as the statute book will show. There appears to be an apathy and indifference to this subject which is inexplicable. See documents "official" in the Appendix.

With the 'discretionary power' to issue 'duplicate bills', when and to whom they choose, the deputies who can sign bills, (or inspectors of the old dynasty if restored to office,) may use of the trust property, having an understanding with the clerks, foremen, coopers, or labourers, and Inspector

General Seaman be kept profoundly ignorant that any such fraudulent operations are going on, which may be concealed from him by the deputy and the clerk or foreman supplying the place of those which may have been used, by purchase or substitution, from other of the "trust ashes," as was done for years and years under the old dynasty, with thousands of barrels, Devereux, Gebhart's, and others; ashes having been given to Hart, Thomas, Card, and others as substitutes for their ashes which had been used, without consent, under the "discretionary power," which dangerous power I apprised the Chamber of Commerce (see my letters to their presidents in the Morning Courier of July or August 1827) on the 13th June, 1825, was then in full operation, and before and subsequently the constituted authorities, by letters, &c. (the first dated 4th March, 1825, the last on the 29th March last), but strange to tell, a deaf ear has been lent to all I have said, particularly since 1st January, 1829, owing by the by to the deep finesse of Governor Van Buren's sending back my official letters to the Comptroller to conceal from the Legislature and the public that he had borrowed his ideas from the poor inspector on the subject of "discretionary power." Whoever may doubt the fact, I refer him to my letter of 22d a 23d October, 1828, and the letter and affidavit of 1st January, 1829, copies of which will be found in the Appendix, and his doubts that the message was predicated on them will be dissipated merely by collating them. This mode of keeping me down by suppressing my official reports is certainly unfair, to say the least. If I should die or give up this unprofitable controversy, (which has ruined me in pecuniary matters) as I have now no immediate personal interest in the inspection system, further than having the "spurious journal entries" rectified, (which is a mere point of honour) the law will probably continue, much as it is, until some tremendous breaches of trust show the impolicy of having lent a deaf ear to the "poor inspector" and ex-inspector's admonitions. Temptations to do wrong ought never to be held out, which they are as the law now stands in fact and truth. See Appendix.

Had it not been for the fortuitous circumstance of a letter from Messrs. De Rham & Moore's Antwerp correspondent of 29th May, 1827, published in the Morning Courier of 20th July, 1827, I would have been unable to introduce into the general provisions my all important 174th, 175th, and 176th sections, and to prevail on the Hon. Benjamin F. Butler to have the penalty of the 177th section raised from \$250 to \$2500 and imprisonment, (see 6th and 11th section of Hart's engrossed bill of 14th November, 1828, amended by Butler); but here again, by another legislative mistake in the 174th section, using 'preceding' for my word 'consecutive,' and the exercise of another species of "discretionary power" by Comptroller Wright in dispensing with the filing of the all important oath required by my 175th section, the whole inspection law is virtually rendered a dead letter, particularly as the inspector general and his deputies can act as they please, that positive and negative oath out of the question, on which subject I refer to the 'specific charges' and the concluding paragraph in my letter to Governor Throop of 31st December last, in which it will be found I more than suggest corruption, maugre all which the regency thought it advisable to pocket the insulting allusion, and suppress the letter and that of 1st January last in which it was enclosed, rendering the suppression of the subsequent letters, &c. to the speaker and president of the senate necessary, as a matter of course. See copies in Appendix.

Being a plain matter of fact man, I perhaps cannot make myself better understood on the all important subject of "discretionary power," than by a case in point accruing in my own business (independently of those mentioned in the letters and affidavits of the 1st, 13th, and 21st January, and 7th February, 1829, in Appendix) and if altogether they do not show the Chamber of Commerce the absolute necessity of their prompt interference



as the guardians of the mercantile interests of this city, and of the state indirectly, the first moment the legislature meet to have the "discretionary power" taken from inspectors of all descriptions, or limited in its exercise, (even if it should be for my interest not to act further in the business, as my children in Georgia and friends here think I have already devoted too much of my time and money for the benefit of the public), then I am greatly mistaken in the judgment I have formed of their sound mercantile good sense and discretion, although the advice does come from the 'poor ex-inspector;' whose 'advice,' when in office (October 1827) they found themselves constrained from a sense of duty to their constituents to seek through their committee, Jeromus Johnson and James Boyd, jun. Esquires, to ascertain what amendments were fit and proper to have made to the inspection law, and those which he did suggest to the committee were adopted.

In the New-York Gazette of July 10, 1826, will be found an extra notice relative to one hundred and ninety-three casks of "unclaimed ashes," then in my hands, being the first official notice which had ever appeared relative to that species of property from an inspector of ashes; which act of mine Major Cooper remarked to Mr. Brown, had entirely destroyed the confidence of co-inspectors in me, I opine because it disclosed one of the illegal items of the "contingent fund," and was an indirect reproach on him, Snow & Bogart, Dox & Stoddard, for neglect of that duty, under the twelfth section of the act of February 25, 1813, and the seventeenth section of act of April 5, 1822. See journals of the Assembly, 1828, from 54 to 63 inclusive.

There was no obligation on my part, to be at the expense of this "extra notice," but I thought it unfair to take the owners by surprise, who might not notice the auctioneer's advertisement if made under the seventeenth section, and their property might be sacrificed in consequence of it. Another reason I repeat, was, a notice of any kind being a new thing, the unclaimed ashes having been sold at private instead of public sale, for glass houses in Ulster county, Hartford, Coventry, and to soap boilers, or were bestowed as largesses, to obtain and retain patronage, and to such an amount, that in October 23, 1828, I made an indirect overture to the Comptroller, to secure to the state from twenty-five to thirty thousand dollars for the "people's legal" and "equitable" right to the ashes, or proceeds held or placed, directly or indirectly, in abeyance, (which letter was submitted to governor Van Buren, and then sent back to the office instead of accompanying the message,) and to Comptroller Wright, in June 18, 1829, I offered to find satisfactory security for fifty thousand dollars, which letter, I aver, has also been withheld from the last legislature, as the journals will show. The delivery of the letters to both comptrollers I can prove, if necessary, by the gentlemen who had taken them in charge. If these discretionary acts are not violations of constitutional duty, then I am greatly mistaken. The consequence of the extra notice was, eighty-seven casks of the ashes were "legally" claimed by A. P. Hamlin, Esq. (by the exhibition of original bills,) who was so irritated at my advertising, that he would have taken them out of my possession, had I not shown him the law of 1822, which made the duty imperative to report to an auctioneer, but which I had not done as yet. Mr. Hamlin had been told by Messrs. Snow & Cooper, that it was "discretionary" with the inspector to report or not, and he was shown the twelfth section of the act of February 25, 1823, in which a "discretion" was allowed; but in consequence of representations made to the legislature, it was taken from inspectors by the seventeenth section of the act of April 5, 1822, to which, however, no attention has been paid. Mr. Hamlin, on leaving me, remarked, he should leave his ashes in my custody, as he found me a "safe trustee," and which he did until compelled to remove them from No. 7, Washington-street, about the



beginning of May, 1827, when I left it. Messrs. Snow & Cooper had been so imprudent as to tell Mr. Hamlin and Moses Hart, Esq. of Canada, that they had had ashes for years and years on hand, (or rather the proceeds being a perishable article,) but had never advertised, and their criminal neglect was instantly apparent to men of their intelligence, the moment they cast their eye on the law. Would the collector of this port, if it was found he had withheld his notices, had sold the "unclaimed property" at private sale and pocketed the money, find any person to countenance him in such discretionary acts? The residue of the ashes, one hundred and six casks, were officially reported to Martin Hoffman and Sons, the auctioneers, under the seventeenth section, (see journals of the Assembly, 1828, page 60,) but were "legally" claimed by David Stebbins, Esq. who, full of "ire" at my supposed "abuse of power," was for removing them immediately, until I convinced him, (as I had done Mr. Hamlin,) that I had no occasion to give the extra notice, and that the report was an imperative duty and an act of "sound discretion" on my part; as he should have called once in eighteen months to inquire into the condition of a perishable article, and whether I had not made use of any under the "discretionary power," as was the practice of others. Deeming me a "safe trustee" he also left the ashes in my possession with orders to re-inspect them, which I refused to do until he sent a person with the bills to ascertain whether the identical casks were on hand and untouched, alias had not been used under duplicates; for if so, the gain in his pearls, from the effects of atmosphere, would have been lost to him, if their place had been supplied by substitution.

We will suppose that I had followed the example of the senior inspectors, Messrs. Snow, Cooper and Bogart set me, of withholding both notices, and as I was notoriously the "poor inspector," I had used, (when occasion required,) a part of the whole of Messrs. Hamlin, Stebbins and others "trust ashes," until "claimed or demanded" under bills issued to my "convenient friends," with the "mystical" word "duplicate" written on it, which "barred all inquiry," as the "constituted authorities" refused to limit the discretionary power, saying if abused, complain to a grand jury, not the legislature, because it is a violation, not an evasion of law, if it ever has been practised; (see report of the Joint Committee journals of the Senate, October 30, 1828, page 65,) and when they called to "claim or demand," they should find I was dead, had used the ashes from time to time, "as my necessities required it," and should be told by my clerk and foreman, (who may have had a share in the "prize," to induce them to wink at my illegal and fraudulent acts,) that in consequence of my demise they could not now undertake to substitute other "trust ashes," which would be done if I was living, (to cover the transaction,) and as I had died bankrupt, on whom would the loss fall? Could Messrs. Hamlin, Stebbins and others trace into what broker, shipper, or other purchaser's hands, (even a bona fide one,) they had passed the doctrine laid down in the Fulton Bank case, that "trust ashes" could not be hypothecated by agents, &c. beyond their actual lien, might apply and a recovery had; but as I had taken special care to cover my illegal acts by having the ashes re-inspected, and mixed with others of "my stock," (see Conkling's letters,) had used a "fictitious mark" in the "duplicate" bill (issued to my "convenient friend," under the "discretionary power"), say Andrew Jackson, it was impossible so that my friend and the purchasers were safe. "Lead us not into temptation," for who knows the consequences. Many a person, I believe, passes through this life an honest man, merely from the fortuitous circumstance of not having "temptation" placed in his way. Had "Duer's" seventy-sixth section been in operation instead of Ephraim (not Truman) Hart's fourteenth section; the first of which allows, the other forbids clerks, foremen, &c. buying and selling, I firmly believe I would not

now have been able to say, (as I have sworn in my affidavit of January 1, 1829), that I had not, directly or indirectly, touched the "trust ashes" illegally even for a "temporary purpose," for my necessities at times were so great, that, had it not been for the good "advice" I got at home, "touch not, handle not the forbidden thing," I could have given way to other advice directly the reverse, for I was repeatedly advised to do as Messrs. Snow, Cooper and Bogart had always done with the "unclaimed ashes," (both fit and unfit for inspection), sell them under duplicate bills; because with that contingent fund always at command, I could not compete with them; as they could afford to take ashes free of storage, pay cartage, make presents of coats, hats, pantaloons, and give largesses on ashes to obtain and retain patronage, which I could not afford out of my "legal" income, and my ruin would follow as a matter of course, by attempting competition under such circumstances; (see Conkling's letters, suppressed by governor Throop, shewing the practice was in operation in Snow & Cooper's office as late as 25th September last.)

But as my ruin as a merchant is well known to have arisen from "breaches of trust" and "abuses" of "discretionary power," (of which I could give striking cases in point, of both, if it was fit or proper), I lent a "deaf ear" to all such "advice," as I knew it was predicted on "sinister motives," and not knowing but one deviation would lead to another and ultimately, (having generally forty thousand dollars worth of "trust property" under my control), to make a grand sweep with duplicates issued under the baneful "discretionary power," and abscond with the proceeds. This is not a fanciful description; let the law stand as it is, and ere long it will become a reality, although I may not be here to witness it. Prevention, I say, of an evil is to be preferred rather than provide a remedy for one. My invariable rule was not to touch the "trust property" (of any description), even for a "temporary purpose," as Messrs. Conkling, Leonard, Powers and Heiddy, (who were in my employ) knew, although I was at my "wits ends" from day to day, to devise ways and means "legally" to obtain funds, as the holders of bills could lawfully keep me out of my fees and advances for twelve months, under the act of 1822, and as much longer as they thought proper, merely by apprising me, before the expiration of the year, that they held the bills, so as to prevent me advertising them as "unclaimed." I could mention instances of oppression where I was kept out of my just dues to increase my pecuniary difficulties, and force me, if possible, to abdicate.

My predictions to the chamber, between June 9, 1825, and March 23, 1827, relative to the "discretionary power," exercised by Messrs. Snow, Cooper, Remsen and Durment, in effacing the old, and substituting new brands on ashes, not actually re-inspected, and to cover the, (what shall we call it), transaction, to cancel the old, and issue new bills, proved to be prophetic, as the advices from Antwerp, Havre, and other ports, published in the Morning Courier, commencing July 20, 1827, too conclusively shew.

I will now venture another prediction. Let the present "discretionary power," of issuing duplicate bills, remain with the Inspector General, and every subordinate whom he may authorize to "sign bills," without limitation, as at the present moment; let "Duer's" plan (see his eighty-fifth section, adopted word for word, in the legislature, seventy-sixth section), to buy and sell ashes, fit and unfit for inspection, remain unaltered; leave to inspectors the "old power" to issue copies unsigned, instead of requiring them to verify, all to be issued by signature and by oath when the absentee has reason to suppose he has been "cheated," (as I have frequently proposed, but has been virtually rejected by suppressing the reports, memorials, letters, &c. containing the overtures,) and mark my word, although I may not live to see it, that some tremendous "breaches of trust"

will convince the holders of ashes, the Chamber of Commerce, and the "constituted authorities," of the impolicy of not attending to the warnings of the "poor inspector"; because, forsooth, he was supposed to have "sinister motives" at bottom, and was not acting on "purely disinterested principles." Who, let me ask, ever does act without a motive? Is it not present or posthumous fame we are one and all looking for? Even the inducement to act a religious and moral part here is with the hope we shall profit by it hereafter. What nonsense, therefore, to talk about purely disinterested motives, when every body knows the idea is Utopian.

I now declare I have "sinister motives" at bottom in this communication, viz: to avail myself of "differences of opinion," here and at Albany, on the subject of "discretionary power," and suppression; for without I avail myself of such differences, I find I shall never succeed in my legitimate views, having by "over fastidious motives" allowed myself to be kept at bay at Albany, for nearly three years, by the by, through the personal influence of Mr. Van Buren and his political friends.

If governor Van Buren and lieutenant governor Throop were severally asked whether they did not suppose that "constitutional" duty required, that the communications to the comptroller, and the letters to the executive, of 30th December and 1st January last, relative to the abuse of "discretionary power," and the sums Mr. Henry offered (on the 22d or 23 October, 1828, and June 18, 1829), to secure to the state, for their "legal" and equitable right to the "unclaimed" ashes, or the proceeds held or placed, directly or indirectly, in abeyance, should not have been laid before the legislature of 1829 and 1830? The answer undoubtedly would be in the affirmative, but that it was fit and proper to exercise a "discretionary power" in withholding them, otherwise their "party friends" would have suffered the consequences, mentioned by Mr. Henry in his "specific charges," first, seventh and eighth, which, as "heads of the party," it was their duty to prevent if possible. How far "constitutional" duty should give way to "party duty," I am not casuist enough to say; but perhaps the governor and lieutenant governor being "sophists" in principle and practice, may be able to show it would "square" with the "fitness of things." One of the reasons for lieutenant governor Throop's withholding the communications to him from the legislature, was to render abortive the intention of the honourable James McCall, (an influential gentleman of "the party"), to make me Inspector General; (see his letter of August 26, 1828, in that to the lieutenant governor), on the principle that I was the proper person to put in operation my own system of inspection, when there would have been little cause for complaints against it, which now existed in the minds of many; but it was thought differently at Albany, and as neither Messrs. Snow, Bogart, Cooper, Durment and Remsen could with any propriety be appointed, although party men, Mr. Seaman, an officer of customs, was placed at the "head of department," who, it is said, (for I have no personal knowledge of the gentleman), was at the time of his nomination and appointment, "profoundly ignorant," both of the "theory and practice" of inspection, and of course had to learn his "syntax" from the ex-inspectors, (his deputies), who had been rejected (as wanting in principle), for principals. Whether it was an act of wisdom on the part of the governor and senate to make such an appointment on "party principles," time must determine.

Not the least responsibility attaches to Inspector General Seaman, and of course not on his deputies, for any acts of omission or commission done or suffered to be done under the Revised Statute chapter 17, as it now stands, which is shown by details in the documents given in the Appendix, but to exhibit it in a more compressed shape, I state (disprove it who can), that on the 1st January next, the inspector general not having been in office one year, he can have no unclaimed ashes to report to any auction-



eer, and of course sections 171, 172, 173 are, as to him for this year, a dead letter, as is also my 174th section: because, not having rendered original bills to an auctioneer, he cannot possibly have any 'duplicates' to transmit to the Comptroller, and as the filing the report and affidavit required by the 175th section has, by the wisdom of the legislature, been made to depend on the contingency of his having 'duplicates' to file with the Comptroller, he gives my all important 175th section the go by, when merely by filing my oath No. 176, that he has no unclaimed ashes on hand, he avoids the penalty of the 177th section as amended by the 11th section of act of 14th November, 1828.

*Responsibility.*—None attaches to the inspector general or his deputies under the 17th chapter of the revised laws, but what may be avoided by the mistake in the 174th section.

*Consequences.*—The inspector general and his deputies who "sign bills on his behalf," may have done or suffered to be done, every act forbidden, (positively and negatively,) or required by my 175th section, the sum and substance in fact of every section from 61 to 82 inclusive, also of the general provisions from 171 to 186, and yet they, one and all, go 'scot free,' as the only oath filed is that required by 176th section; which is merely a disclaimer as to a particular fact—for instances:

Unbranded ashes from Albany may have been passed here as formerly, without emptying out and duly inspecting the same, agreeably to the private marks, contrary to the 64th section merely by re-weighing them for the purpose mentioned in my letter of 12th June, 1829, to my brother, the late John V. Henry, Esq., copious extracts from which will be found in my letter to Governor Throop, suppressed, in the Appendix, and to which I beg leave to draw the particular attention of the Chamber here and the Chamber of Commerce in Albany, whose duty it is to inquire into the reason why the 64th section is not attended to; on which subject I refer again to the report of joint committee, Journals of Senate, page 65.

His deputies, clerks, foreman, coopers, and labourers, may have bought and sold ashes, consequently ashes purchased by them in one office may have been 'sherryed' at another office, say 2d and 3d and even condemned, raised to superior sorts, say even first. See Richard Farrall's certificate of 24th December, 1806, a copy of which will also be found in the letter to Governor Throop; also some curious information respecting red and black D's, and other 'secrets worth knowing,' growing out of the no branding system.

Again: Ashes may have been shipped contrary to the 72d, 73d, and 74th section of the Revised Statute chapter 17, as was formerly done under the 10th section of act of 5th April, 1822. See also copy of letter to Governor Throop, suppressed, for some very interesting information on that subject: in short, I repeat, every section in the law may have been directly or indirectly violated, and both master and man go 'scot free,' merely from the legislature, without reflection, having made the filing of my all important oath No. 175 to depend on a contingency which need never happen, (filing duplicates with the Comptroller under the 174th section) unless the inspector and his deputies see 'fit and proper,' as any unclaimed ashes can be made way with, before the return day 1st January in each year, under 'duplicate bills,' and that legally as long, I repeat, as the discretionary power to issue such bills, without limitation, remains with either the inspector general or his deputies. What a defective law!!!

Let any person read the law and then I ask emphatically—the report and oath required by my 175th section out of the question—what binds the inspectors? Nothing but conscience, which too frequently 'kicks the beam' when she comes in competition with interest.

Let therefore the "discretionary power" be taken from the inspector general and his deputies, alter the 175th section so as to compel him annu-

ally to file that oath under forfeiture of office, "That he had duly accounted with the owner or agent for all the ashes delivered to his care, as the law directs; and that he had not, by himself or any person in his employ, made out any invoice, weigh-note, or bill of inspection of a later date than the time such ashes were duly inspected, and that the same were emptied out of the cask or casks and duly examined at the date of every such invoice, weigh-note, or bill of inspection;" which done and the 'sad mistakes' in the 76th sections and others corrected, absentees both at home and abroad are safe, but not till then; as 'discretionary powers,' Governor Van Buren justly says, "cannot be confided to any one without danger of abuse." See specified charges for practical illustrations; also the Governor's own acts in sending back, &c.

It was 'decreed,' from time immemorial, that three times in the course of eighteen years 'breaches of trust,' alias, illegal exercise of a 'discretionary power' by public officers, should come within my personal knowledge; and that in each case as a stockholder, a merchant, and an inspector, I thought it fit and proper to interfere, because in all three cases my interest was immediately affected, particularly in the first and last. I refer to the cases of Messrs. George C. Sharpe and R. Clinch of the New-York State Bank of Albany; of Archibald Clark, Esq. collector of the port of St. Marys, Georgia; and of Messrs. Robert Snow, Samuel Cooper, Isaac H. Bogart, John H. Remsen, William Dumont, Gerrit Dox, and John Stoddard, inspectors of ashes for New-York and Albany, and in neither case was my warning attended to till the evil was past remedy, because forsooth, it was supposed I was governed by 'sinister' motives; but in every case my predictions have proven true by the issue. The cases of the collector and inspector I shall not touch further, only that of 'the clerks,' by whom it is said a loss, beyond their bonds, was sustained of \$50,000, which would not have taken place had it not been for an imprudent expression of the cashier. The facts unfortunately show that whenever I have made predictions relative to the illegal exercise of 'discretionary power,' they have proved too true.

In the course of preparation for a certain trial it was necessary I should make minute inquiries into the monied operations of Mr. Sharpe, particularly into his speculations in "provisions, produce, and merchandise," but especially of pot and pearl ashes, and as I could not personally, without giving alarm (and for other reasons) I had to employ agents whom neither he nor his co-adjutors could suspect, whom I paid munificently, and consequently commanded their best services. In the course of their inquiries it was found that many clerks had formed 'entangling alliances,' and spent sums such as their incomes would not admit of, and it was not long before I found that Sharpe and Clinch were playing into each other's hands, and duping the cashier. I accordingly called on the cashier, (the day can be made certain by interrogatories delivered to Matthew Allen, Esq. now of this city on file in the clerk's office) and told Mr. Yates I believed he was hoodwinked by Sharpe if not by Clinch. He took fire at the suggestion, although I told him I had a right as a large stockholder to say what I had, however disagreeable to him, and he threw out an idea as to my motive, which induced me to say I would communicate nothing farther, but that as soon as the rules of the bank would admit of it, my stock should be sold out. My brother wished to take some of it, but I advised him not, telling him the bank was not safe with such clerks, who I was convinced were unfaithful, and that something would happen to depreciate the stock. Some years afterwards, I took up a paper at St. Marys, containing the observations of Mr. Sharpe of this city, in the legislature, relative to State Bank stock, and found that my predictions were verified, the clerks having over-

drawn under the "discretionary power," upwards of \$50,000. On my return to Albany in July, 1822, I asked a person who knew, if the frauds were not effected by falsifying balances, which he said was the fact. I then told him what had past, and that the loss would not have happened if the cashier would have listened to me; but he would not, as he supposed I was acting from "sinister motives," and thought he was too acute to be made a dupe of; but the result proved that he was not.

I will give a strong case in point relative to the exercise of the "discretionary power" of substitution, out of many that might be mentioned.

Nicholas Devereaux, Esq. of Utica, will no doubt recollect calling at my office with Abraham Heddy, in 1825, in search of fifty casks of stray ashes, which he was told were probably in my hands. It was upon the point of my tongue to tell him they no doubt were in Hart, Thomas & Card's hands as substitutes, and to refer him to my letter of 13th June, 1825, to the president of the Chamber, (see Morning Courier of 24th July, 1827,) when he naturally would have requested a sight of the 'books of substitution,' but I did not, as 'sinister motives' would have been imputed to me. Mr. D. told me of his own accord, that if not satisfied relative to his ashes (which actually came to market in the preceding Sept.) I would see him again on the subject of inspection; but that I knew would not happen, as he would be 'satisfied,' as Mr. Alexander Black had been the preceding January or February, to whom I refer for particulars. Mr. Devereaux was, I have reason to believe, 'satisfied' with some of Frederick Gebhard, Esq.'s ashes; and when Weeks his carman called, he was 'satisfied' with others (forty-six casks) in lieu of ashes marked S. Jones, &c. which could not be found, and so on to the end of the alphabet.

What prevents the Deputy playing the same game now as he did when Principal? Nothing; nay he can do it with more safety, as his clerk, foreman, cooper, &c. have now the legal right, under Duer's system, to buy and sell, (which they had not under the old system) and as Mr. Snow has the right to sign the bills, all he has to do is to write 'duplicate,' and the bill may be offered by either of his men to Messrs. Crassous, Merle, Cornell, &c. and neither have now a right to make any inquiry; but not so under the 14th section, act of 1822; for then if satisfied the signature was genuine, they were certain the foreman, cooper, clerk, &c. were acting fraudulently. All this may be done with safety and the inspector general be perfectly innocent, as 'we of the old school' know how the thing can be covered, viz. by exercising the 'discretionary power' of substitution. If the public are willing this state of things should continue so—so be it.

I beg particular attention to the documents in the Appendix to show that when I have applied for amendments relative to the "discretionary powers" of substitution and duplicates, &c. I have been told by the executive and legislative branches, go to the judiciary; and when application has been made to the latter, I am told to go to the former. Thus between the three branches I have been 'kept at bay,' and such self-evident amendments as requiring the inspector to certify his copies by signature, (and if necessary by oath) and the repeal of the Duer system, alias taking from clerks, foremen, coopers, and labourers the right to buy and sell, and above all, the limitation of the much to be dreaded "discretionary power," has virtually been refused me, through the finesse of suppressing the reports, &c. in whole or in part, containing the several overtures. The thing appears so incredible that my mere assertion should not be taken, and therefore it is indispensably necessary I should give official evidence to prove the fact to be so, as I am personally known to so few of those whose interests are in jeopardy, as the law now stands.

My object in making this communication is, that should death or casu-



alty remove me, the evidences of the unwearied pains, expense, and trouble I have taken to have the "Chapter of blunders," (commonly called the Revised Statute, chapter 17) amended, should appear ; the errors in which are too many and great to admit of its answering the purposes of the public as it now stands.

R. R. HENRY.

*New-York, 23d August, 1830.*

NOTE—I take it for granted, that neither Inspector General Seaman, his deputies Messrs. Robert Snow, John Brower, Cornelius V. V. Leonard, their clerks, foremen, &c. nor ex-inspectors Samuel Cooper, John H. Remsen, and William Dumont, nor their clerks, foremen, &c. will deny that sales of "trust property" under "duplicate bills" issued to brokers, clerks, &c. have been made under the "discretionary power," and that purchases have also been made to supply the places of ashes taken as substitutes ; for if denied, I will quote specific cases, (giving head-marks, with the names of sellers, purchasers, &c.) more than enough to satisfy the most sceptical. But as my object is to provide a remedy against the abuse of the "discretionary power" for the future, and as far as possible to bury the past in oblivion, I withhold particulars farther than may be found in the Appendix (relating to the "old dynasty" of inspectors); but the least doubt of my veracity will compel me, in self-defence to quote particulars, as I am extremely tenacious on that subject, and can quickly convince 'doubters' that I speak with book in hand.

## APPENDIX.

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*Presented February 27, 1830.*

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TO THE

### LEGISLATURE OF THE STATE OF NEW-YORK,

IN SENATE AND ASSEMBLY CONVENED,

*The memorial of Robert R. Henry, (late one of the Inspectors of Pot and Pearl ashes for the City of New-York,)*

RESPECTFULLY SHEWETH, That on the 24th January, 1829, he forwarded his report under the 185th section of the Revised Statutes, chapter 17, under cover to the Honourable Speaker of the Assembly, per William James, Esq. (which must have been delivered on or about the 26th January,) which report, for reasons which it will explain (when examined), it was found necessary to suppress.

That, being satisfied such was the fact, your memorialist forwarded a duplicate of the report, per mail, (under cover of a letter to the Honourable the President of the Senate, dated January 31, 1829,) giving him therewith a copy of the letter to the Speaker, which, (through courtesy), it was presumed, had, (with the original report), miscarried, which duplicate report it will appear by the journals of the Senate of February 4th, 1829, page 153, was received; but for causes (which the report will in part explain), it was found necessary to suppress, after the words "A practice," together with the letter to the President, in lieu of which the letter to the speaker, (or the copy of it), with the address altered, was substituted and entered on the journals, so as to give the duplicate the ostensible appearance of being the original assertions which should not be credited; of the report and letters in the hands of the clerk of the Senate would not establish that fact beyond the possibility of denial, putting out of question the fact, that the report and letter, as entered in the journals, cannot be produced by the clerk. Should such transactions meet with countenance in any quarter, which brings the journals into disrepute directly?

And your memorialist further begs leave to state, that from the journals of the senate, 153, it appears that the said duplicate report was referred to the committee on manufactures, by whom no report on its merits has been made, (as their journals will shew), which suppression was indispensably necessary to cover transactions specially referred to in the report and documents on the Comptroller's executive and legislative files.

And your memorialist further begs leave to state, that it appears from the journal of the Assembly of February 6, 1829, page 389, that the original report was presented to the House, and all of it after the word "independently" was suppressed, together with the letter to the speaker, (of January 24, 1829), which it appears was loaned to the clerk of the Senate, to put on their journals, although the clerks (of both houses) state expressly to the public, that



"A communication from Robert R. Henry, inspector of Pot and Pearl ashes for the city and county of New-York, was received and read, in the words following, to wit:"

when the clerk knew that five half sheets, containing the most important parts of the report, and the entire letter, was suppressed.

And your memorialist further begs leave to state, that from the journals 389, it appears that the original report was referred by the Assembly to a select committee, consisting of Mr. Johnson, Mr. Edgerton and Mr. Dayton, (but for what purpose is not said), one of whom was deeply implicated in the suppressed parts of the report, as one of the joint committee, of which the honourable Truman Hart was chairman, (whose report will be found on the journals of the Senate, extra session, October 30th, 1828, page 65), and also as chairman of the select committee, whose report will be found in the journals of the Assembly, of November 11, 1828, page 89.

And your memorialist further begs leave to state, that on the journals of the Assembly, for February 9, 1829, p. 398, it appears that Mr. Johnson, from the select committee, reported,

"That, in their opinion, it was only necessary to have entered on the journals so much of said report as is contained in the first page, and on the second to the word "independently," and that the residue of said report does not deserve any further consideration."

Which report was agreed to by the Assembly, without being aware that they were rejecting the "emoluments derived from his office," which the inspector is imperatively required to report, by the 185th Section, (separately from the fees), to the amount of  $354\frac{50}{100}$  dollars, which fact can be ascertained merely by collating the journals (of the Assembly) with the Senate's—also, from the report itself, the motives for all which suppressions will be apparent, when the documents in the hands of the Comptroller, (and the executive files), are examined, which will shew that governor Van Buren's message, on the danger of "discretionary powers," was predicted in communications made to the Comptroller by your memorialist, dated 22d and 23d October, 1828, and 1st January, 1829, specially referred to in the suppressed parts of the report. The reasons why those documents did not accompany the message, will be ascertained when the letter and the affidavit of the 1st January, 1829, are called for and read, which it is presumed will be done, as the treasury has a deep interest in their contents.

And your memorialist further begs leave to state, that on the 9th February, 1829, he forwarded, per mail, a letter to the Honorable Speaker, enclosing the memorial alluded to in the suppressed parts of the reports (to the Senate and Assembly), all under cover of a letter to the honorable Mr. Johnson, of the Assembly, open for his perusal and delivery, but the postage not being paid, Mr. Johnson declined taking it from the post-office, but with his consent the package was taken out by Peter Seton Henry, Esq. and was handed to Mr. Johnson on the 27th February, 1829, by whom, (or the late Speaker), it was withheld from the House until the 6th April last, when the following most extraordinary entry appears on the journals, relative to the memorial, but nothing is said as to the important letter to the speaker, which was totally suppressed for reasons which the copy in the communication to the Governor of the 31st December last, will make apparent, and to which your memorialist now specially refers for particulars.

960.

IN ASSEMBLY.

*Monday, April 6th, 1829.*

"The memorial of Robert R. Henry, an Inspector of Pot and Pearl ashes, of the City of New-York, praying for certain amendments to the law passed November 14th 1828, entitled, "An act respecting the Inspection of Pot

and Pearl ashes and the duties of Inspectors and Auctioneers," was read; thereupon ordered, that the clerk communicate the memorial to the Senate."!!!

And your memorialist further begs leave to state, that on the journals of the Senate, there appears the following entry relative to the memorial, (but not a word about the letter), shewing from the reference itself (most conclusively) that something else besides amendments to a potash law was prayed for, and which your memorialist takes it for granted the present legislature will ascertain, as the interests of the state for the time to come are deeply involved, putting the past out of consideration.

413.

#### IN SENATE.

*Tuesday, April 7th, 1829.*

"The memorial of Robert R. Henry, relative to so much of the Revised Statute as relates to the inspection of Pot and Pearl ashes was communicated from the Assembly, and was referred to the Committee on the Judiciary."!!!

And your memorialist respectfully begs leave to ask, whether in the legislative annals of this state, there ever was such proceedings on a memorial merely praying for "certain amendments" to a potash law, which, after being read (by its title only), in the Assembly, should be sent to the Senate, where, (instead of being referred to the appropriate committee on manufactures), it should be submitted to the Judiciary Committee? The reason for all this finesse and management, (also on the fourth, sixth and ninth February, 1829,) will be satisfactorily explained merely by calling for and reading the memorial, (which has also been suppressed), when of course the reports to which it is supplementary will also be read, all which will disclose "secrets worth knowing" when taken in connexion with what follows.

And your memorialist further begs leave to state, that in the Commercial Advertiser of the 7th April last, there appeared a letter from Colonel Stone's correspondent at Albany, (said to be the Hon. Benjamin P. Johnson of the Assembly) which will throw some light on the above mysterious "journal entries," and on those made on the 4th, 6th, and 9th February last, to which they appear to be the covers; but that point can be best determined when the reports, memorial, &c. which have been and will be referred to are read.

Letter from the Hon. Benj. P. Johnson to Col. Stone.

"Albany, Monday, April 6.

"A memorial from Robert R. Henry, inspector of pot and pearl ashes was presented this day by the Honourable Speaker. He remarked that every citizen had a right to petition the legislature, but he did not know how far he was bound to present all communications enclosed to him. This one reflected upon the conduct of an honourable member of the other body, and the House could determine what course was best to adopt in relation to it. After a few remarks, Mr. Johnson moved that the Clerk communicate the said memorial to the Senate, which was done."!!!!

And your memorialist further begs leaves to state, that on the 1st January last he made an official communication to his Excellency Enos T. Throop, accompanied by another, dated 31st December, 1829, relative to the above transactions, and others immediately connected with them (before and subsequently) entitled, "A communication from Robert R. Henry, inspector of pot and pearl ashes, relative to illegal practices in some, and corrupt practices in other officers of the government, with references to documents in their own offices, by date, &c. for positive proofs, and showing the necessity for amendments to the inspection law," which official communications your memorialist was under the impression the Governor

would deem it a constitutional duty to make known to the Legislature; but sympathy for the persons directly and indirectly implicated (both in and out of the Houses) has probably induced the Governor to withhold them until called for legislatively, which should be done, as the communications point to some "sad mistakes" made both by the revisers and legislature in the Revised Statute, chapter 17, (particularly in the 76th section) not only as to ashes, but "provisions, produce, and merchandise" generally, which cannot be too speedily rectified for the public good; some of which were 'hinted' at by Governor Van Buren when he recommended a careful revision of the Revised Statutes. The 14th section of the act of 5th April, 1822, collated with the 76th section will show that conclusively.

And your memorialist further begs leave to state, that on the 5th January last he transmitted officially to the Comptroller the affidavit required by the 176th section of the Revised Statute, chapter 17, "general provisions," with a letter of the same date, in which I specifically point out my own case to show him officially and as trustee what a "worthless thing" the statute practically is, because with the aid of "duplicate" bills (the defects in the 64th, 76th, 171st, 174th, 176th, and other sections) and the "discretionary power" unlimited, (as it now is) the inspector or his deputy can act as he or they see fit or proper; and for additional facts to support the averment, refer to the communications mentioned in the suppressed parts of my reports, particularly the letter and affidavit of the 1st January, 1829, to the Comptroller; the letter of 11th November, 1828, to Lieutenant Governor Pitcher (with the enclosures), but specially to the letters to the Comptroller of 30th May and 18th June last, in which the people in their corporate (as well as private) capacity, have a deep interest, both past and as it respects their future safety.

And your memorialist further begs leave to state, that on the 13th January last he wrote to the Hon. Francis Granger relative to the necessity of instantly amending the laws regulating the inspection of "provisions, produce, and merchandise," on which subject I say to Mr. Granger—"Either legally or illegally I got rid of all the unclaimed ashes in my possession in 1823, so that I have had no report to make in 1829 to any auctioneer under the 171st section, of course I have had no duplicates to transmit to the Comptroller under the 174th section the "preceding year," and as the filing of the all important 175th section is made to depend on that contingency, I give the oath the go by; and in order to escape the penalty of the 177th section (6th and 11th of Hart's) I have transmitted the affidavit required by the 176th to the Comptroller (a copy of which and the letter I send herewith) so that if I have been in the habit of violating the duties enjoined positively (and prohibited negatively) by the 175th section, I go 'scot free,' and could in this way, from year to year, avoid filing the oath 175, as long as the legislature allows the inspector the power to issue "duplicates" under the "discretionary power" without limitation—a power which Governor Van Buren justly remarks, "cannot be entrusted to any one without danger of abuse." For other particulars refer to the letter and affidavit, which give ample collateral evidence that the Revised Statute is a "chapter of blunders," as the palpable defects in the several sections are specifically pointed out in the affidavit in Mr. Granger's hands, (particularly in the 76th section, the revisers' 85th) will conclusively show, and consequently the indispensable necessity for amending them forthwith, but specially the 12th section of article 1, relative to "flour and meal." See communications to the Governor and Mr. Granger for particulars, which will also show that the law relative to beef, pork, &c. requires modification.

And your memorialist therefore, (for the reasons given) prays that the "spurious report" and "letter" entered by the Clerk of the Senate on their journals 153, on the 4th February, 1829; the "spurious report" entered



by the Clerk of the Assembly on their journals 389, on the 6th February, 1829, may both be stricken out or amended by having the real reports (and letters) made by your memorialist, in his official capacity, entered on the journals; and which he asks on the principle of common justice. Also, that the memorial referred to the committee on the judiciary, (Journals of the Senate 413, of 7th April last) be submitted to the judiciary or some other appropriate committee with directions to report speedily on its merits. Also, that the Governor, Comptroller, &c. may be called on to submit the communications made to them; and that such amendments may be made to the laws as the Legislature, in their wisdom may deem fit and proper, to protect the rights of the people of this state and absentees, (both at home and abroad) for the time to come, who, as the laws now stand, are at the mercy of inspectors and their subordinates, as the documents referred to will conclusively shew.

And your memorialist as in duty bound will ever pray.

R. R. HENRY.

New-York, 19th February, 1830.



*The Hon. Peter Gansevoort, in Assembly, Albany.*

NEW-YORK, 20TH FEBRUARY, 1830.

Dear sir,

I wrote you on the 11th inst. per mail, to which I refer for particulars. Enclosed you have a letter for the hon. speaker, (with a memorial) which I have left open for your perusal and delivery as it saves me the repetition of nearly the same to you.

Should it not be presented, a duplicate will be sent to the senate, so that it is vain to attempt to smother inquiry as heretofore, as I am a "free agent" once more, and will apply to be heard, if necessary, by myself or counsel, when I attend personally at Albany, which I shall do, life, health, &c. granted me by a good providence.

The more suppressions now for me the better, as they are prima facie evidence of guilt, and add additional importance to the affair. In great haste, dear sir, your most obedient servant,

R. R. HENRY.



*The Hon. Erastus Root, Speaker of the Assembly.*

NEW-YORK, FEBRUARY 19, 1830.

Sir,

Will you have the goodness to submit the memorial herewith to the house over which you preside. It contains matter which you will admit they should instantly know, to enable them to act understandingly on the bill relative to pot and pearl ashes, which I observe has been introduced by the Hon. G. P. Gansevoort. The memorial I have drawn with such a fastidious regard to decorum, that not even the parties directly or indirectly implicated can complain, and must admit, that the averments should be inquired into for their own honour.

On the subject of the "Spurious Reports, &c." (Journal of Senate 153, and Assembly 389,) I say to the governor on the 31st of December last:

"Happily for the public, this affair is instantly settled by the clerk of the senate producing the letter and report as entered on their journals, and the clerk of the assembly the report as entered on their journals. If they can, I will be in an awkward predicament indeed; but if they cannot, the reverse will be the case. Such transactions, every person should discountenance," and I ask, "what should the address on an official letter falsified be called technically? for morally there can be no doubt."

I have long foreseen that the suppressions (here and elsewhere) would lead my opponents to do acts by which they would stand self convicted, but I had no idea they would have committed themselves so absolutely as they have done by the "Spurious Reports," and letter imprudently entered on the journals, from which, neither "Back stairs" or "Lobby" influence can now shield them, as the journals cannot be *yazood*. Happily for me, there can be but one opinion as to the dangerous nature of such like "journal entries," and that the practice cannot too soon be put an end to, on account of its demoralizing tendencies, strikingly exemplified in the present cases, where official documents have been altered and mutilated to suit the purposes of parties implicated. There appears to be a peculiar fitness and propriety in the legislature being made acquainted with the contents of the memorial at this particular crisis, and because I understand a petition is now afloat relative to the inspecting of ashes, growing out of an inspector general (taken from the custom house) being appointed, who has had no practical knowledge whatsoever, and, consequently, must depend entirely on others, whose judgment no one can doubt, but whose applications for the office have one and all been rejected by the governor, who found himself constrained by a sense of "duty, honour, and conscience" to reject them, (being wanting in principle) maugre the powerful appeals of their respective friends and partizans, and their personal claims as active party men, on which principle, Mr. Seaman was appointed, I understand.

For the grounds of the governor's refusals, I refer to my communications to him and Mr. Granger, dated 31st of December, and 1st and 13th January last, in which you will find that the special reason which caused the rejection of Messrs. Snow and Dumont, was the suppression of emoluments derived from their office, to the aggregate of \$7363,62, (see also their reports on the journals of the assembly, 186, 314 and 340) and that the same forgetfulness attaches to the inspector general of "flour and meal" (and all others in the state save the poor inspector) as the journals will shew to the amount of \$2024, (see also journal of the senate 93) to cover whose omissions of positive duty, the "emoluments" reported by me \$354.50, was suppressed on the journals of the assembly, (but by mistake not on the senate's) to save the inspector of "provisions, produce and merchandise" from exposure, I refer to the calculations made in their reports, (furnished the governor and Mr. Granger) which shows in figures the sad blunders made by those inspectors, and the necessity of forthwith amending the 125th section, (and others) which result from the deceptive nature of the reports made under that section last session, and which I have no doubt has this session; but that fact, I cannot satisfactorily ascertain until I go personally to Albany, and also, whether inspectors have filed my oath No. 176 (on the 1st of January last) exactly conformable to the letter and spirit of that section, one of which oaths, if collated with mine, will, I opine, be found deficient in important particulars, but whether it has been accepted I know not.

As I must, from necessity, again become a dealer (in some shape) in "provisions, produce, and merchandise" here, or in Georgia, I have now a direct and deep interest (as I may be an absentee) in perfecting the inspection system generally (with all absentees either at home or abroad) for which collector Swartout's inspector general, I am told, has already shewn

the necessity, even to friends, and that other qualifications than being a "party man" are requisite to constitute a judge of the various qualities of ashes, which can only be acquired by experience and close observation. If, sir, you have a friend or relative in trade, you may have a direct interest in this question as their endorser, &c.

Very respectfully, your most obedient servant,

(signed) R. R. HENRY.

*To the President of the United States, Washington City.*

NEW-YORK, MARCH 2, 1830.

Sir,

My communication to your excellency of the 16th ult. has, I find, been received by the member of congress to whom I enclosed it open, for his perusal, and he informs me under date of the 20th, that it had been transmitted to you; consequently, I refer to it for particulars.

Towards the close of it I proposed to your excellency, that the testimony, &c. in Collector Clark's case should be referred officially to the attorney general—to him in his private capacity, with Judge Wayne, or to either of them individually, to the Georgia representation collectively, or to either of them individually, or to the Hon. John Forsyth, (Gov. Troup being absent) either of whom certifying to me, upon honour, that they had read the testimony, taken by the district attorney of Georgia, in 1822 and 1823, and the other documents in the case, and that I had failed in making good the requisition of the secretary of the treasury of the 10th of November, 1821, that one or any of the charges made good would be sufficient, I would acquiesce in silence.

I am happy to find that Governor Troup having satisfactorily arranged his affairs in Georgia, was on his way to Washington, and I hope has arrived safely there.

I now propose to your excellency, that that gentleman alone, or united with all, or either of those I have named, should decide on the case of Collector Clark. Nothing can be certainly more liberal and fair on my part, than to submit the decision to Mr. Clark's personal and political friends. All I am desirous of is, to have this perplexing affair off my mind. Deeming myself right, it cannot reasonably be expected that I will allow myself, in this country, to be placed in the wrong (voluntarily) when I know the proofs are on file in Washington, to prove my averments to be true.

So much having been said in my former communications (1st, 2d and 7th July, 29th October, and 16th ult.) relative to transactions in Albany, &c. I enclose for your excellency's information a copy of my memorial of 19th inst. the letter to the hon. speaker, of the same date, and of the letter to the Hon. Peter Gansevoort, of 20th inst. to whom both were enclosed open for perusal and delivery. With great respect, I am, sir,

Your most obedient servant,

R. R. HENRY.

NOTE.—Since writing the foregoing, I have seen the Albany Argus, No. 1265, for Saturday, 27th February, 1830, which contains the following "delphic" notice relative to the memorial (called a communication) but not a word relative to the important letter to the speaker, the key to "sundry other matters," which letter, I take it for granted has, according to custom, been suppressed. As soon as I satisfactorily ascertain that to be



the fact, I will send a duplicate of the memorial and letter, with the "specific charges" extracted from my letter to your excellency of the 16th ult. to the president of the senate, to be "laid on their table" till called up.

What should be thought of ex-speaker Robinson, (who is now in the house,) submitting to the first charge in the memorial, and also to that of the 6th of April last. Fortunately for me and the public, the journals cannot be *yazood*, neither can Mr. Johnson's letter to Col. Stone, which commits the ex-speaker beyond the possibility of retreat.

"A communication was received from R. R. Henry on the subject of the inspection of pot and pearl ashes, and 'sundry other matters,'—laid on the table."

*Memorandum.*—The above was copied from the Argus into all the papers of this city of March 2, 1830, (which I have seen) with the exception of the New-York Daily Advertiser, who, I presume, copied from the Albany Daily Advertiser, and which I give to show the deceptive nature of the report in the state paper.

"A communication was received from R. R. Henry, of New-York, late an inspector of pot and pearl ashes, alleging that the clerks of the senate and assembly have entered on their respective journals of the last year a spurious report and letter, and praying that his memorial referred to the judiciary committee of that year may be again referred to that or some appropriate committee, with directions to make a speedy report; that the said spurious report may on the principle of common justice be stricken out of the journals, or amended; and that the governor, comptroller, &c., may be called on to submit to the legislature the communications made to them, setting forth, that defects exist in the laws relative to the inspection of pot and pearl ashes; and that grievances have arisen in the performance of the duties of inspection of that article, and praying relief in the premises—laid on the table."

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[SUPPRESSED.]

*To the Hon. Wm. M. Oliver, President of the Senate, Albany.*

NEW-YORK, MARCH 29, 1829.

Sir,

The foregoing is a duplicate of my memorial of the 19th of February last, and the key to it, in a letter to the hon. speaker of the assembly, (of the same date) which by some unaccountable oversight I perceive I have neglected to request him to submit to the assembly with the memorial.

To correct this "sad mistake" of mine as far and as fast as possible, I transmit you duplicates of both, which, please to have submitted to the house over which you preside, as they have a deep interest in the contents. Until I noticed the oversight, I could not satisfactorily account for the prayer of my memorial not being attended to promptly.

In the letter to the speaker, I allude to a memorial got up by the friends of four of the superseded inspectors, (at the special suggestion of ex-inspector Snow, as I stand ready to prove) to abolish the office of inspector-general, or, in other words, to restore four (of the most guilty) of us ex-inspectors again to office; and should there be any doubts of their guilt, the documents in the hands of the governor, comptroller, clerks of the senate and assembly, the Hon. Truman Hart, Francis Granger, Norton Maynard, Hayden, Broughton, Hazelstone, &c., will instantly remove them.

I observe by the American of the 27th inst. (taken from a proof sheet of

the Albany Argus for Thursday) that a memorial has just been presented from "sundry manufacturers and merchants to abolish the office of inspector general of pot and pearl ashes," which is only a ramification of the same influence which got up the first memorial.

Let the communications alluded to in the prayer of my memorial (to the comptroller, of the 22nd and 23d of October, 1828; the 1st, 13th and 24th January, the 30th of May, 18th of June 1829, and 5th of January 1830; to the governor, of the 31st of December and 1st of January last; and to the Hon. Francis Granger, of the 13th of Jan. last) be called for and read, and both the memorials will be instantly dismissed by unanimous consent, without taking into account the absolute injustice that would be done (by compliance) to the inspector general, and before even a trial of my system, the office having been created at my suggestion (to the Hon. James M'Call,) by letter dated the 16th of October, 1827; see communication to the governor, dated 31st of December last, and the affidavit in the hands of Mr. Granger,

Although I disapprove of the mode and manner of the appointment of Mr. Seaman, yet his removal at this crisis and the reappointment of the others would be a public misfortune, as the four ex-inspectors should only be employed in subordinate stations, but by no means again as principals, as they have abused their trusts, which the communications alluded to furnish abundantly specific proofs, consequently the public will be benefitted by Mr. Seaman having an eye over any of them, he may be compelled to employ either as deputies, foreman, &c.

As a contemplated dealer in the article of ashes, I deprecate the change. Let "Henry's System" have but a fair trial, and it will be found to answer the purposes of the public, although it may not that of individuals.

I am, very respectfully, sir, your most obedient servant,

R. R. HENRY,

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[SUPPRESSED.]

*To William L. Marcy, Esq. Comptroller, Albany.*

NEW-YORK, January 1, 1829.

Sir,

Agreeably to the requirements of the 174th section of the Revised Statute, chapter 17, passed December 3, 1827, I transmit to you officially, "A duplicate" of every "invoice of ashes which have been delivered by me to an auctioneer in the preceding year" (1828), and the amount received by me on sales from any auctioneer. And also the oath required by the 175th section from the inspector, "that he has delivered to some auctioneer of the city or county, (mentioning his name), an invoice, weigh note, or bill of inspection of all unclaimed ashes, which had been in his hands one year or more, and that he has duly accounted with the owner or agent for all ashes delivered to his care as the law directs, and that he has not by himself or any other person in his employ, made out any invoice, weigh note, or bill of inspection of a later date than the time such ashes were duly inspected, and that the same were emptied out of the cask or casks, and duly examined, at the date of every invoice, weigh note, or bill of inspection."

As I have on two occasions, under the act of 5th April, 1822, and on one occasion under the Revised Statute, chapter 17, exercised what I deem a legitimate power, of issuing "duplicate" bills (on the mere averment of Messrs. Woolsey, Boyd and Irvin, that they had lost, or rather mislaid their



original bills), mentioned in Exhibit No. 3, I deemed conscientiously a duty to make it known otherwise. I could not swear that I had "duly accounted for all the ashes, as the law directs", as the power is a "constructive one," no where granted in terms by law.

I wish to draw your particular attention as official trustee of the fund accruing from "unclaimed ashes," to the dangerous nature of the "constructive" power which should be taken from inspectors, and that expressly without a moment's delay, because it has, for many years past, been used as one of the means to defeat the known intention of the legislature as to "unclaimed ashes," and will be so for the time to come, practical illustrations of which you will have between this and the 14th instant, as the report now made I predict will be the only one you will receive under the 174th and 175th section of the Revised Statute, chapter 17, or the 4th section of the act of 14th November last, duplicate bills having been issued to persons who had no legal or equitable right to the ashes, for the express purpose of rendering the 171st to the 176th section inclusive, and the 1st section of the recent act dead letters, and to bring such inspectors under the operation of the 5th section of the honorable Truman Hart's law.

That you may understand the nature of the finesse, I beg leave to state, that the 174th, 175th and 176th sections were introduced into the "general provisions" by the honorable James McCall, predicated on amendments proposed by me, for the purpose of compelling all inspectors to account for the unclaimed ashes, both fit and unfit for inspection.

Some friend of the inspector (who had not accounted), in order to counteract Mr. McCall's and my views, introduced the 177th section, allowing an inspector, who might have "qualms of conscience" in making any report or affidavit required by either of the preceding sections, to avoid making them by forfeiting two hundred and fifty dollars, which every inspector knows the sale of only twelve casks of the unclaimed ashes under duplicate bills, (issued to a broker, clerk or other "convenient friend,") would enable them to pay.

Having obtained the knowledge of this deep finesse, I proposed in my memorial and report of the 8th and 16th October last, to have the penalty of the 177th section altered to 2500 dollars, or forfeiture of office, which their friend, the honorable Truman Hart, found "ways and means" to have rejected in the Senate, and, (as will be seen by the engrossed bill from the Senate and printed by order of the Assembly, No. 3,) I however found "ways and means" in the Assembly, to counteract the honorable Truman Hart's views by having an amendment made to his 6th section, declaring any violation of the 171st, 174th, 175th and 176th section a misdemeanor, punishable by a fine not exceeding 2500 dollars and a year's imprisonment, and by the 11th section the revisers were ordered to amend the 177th section accordingly.

Until the close of November, inspectors were under the impression that the law as reported by Mr. Hart, had passed in the Assembly without alterations. The discovery, however, that the penalty had been increased as above, and the further discovery since, that an Inspector General would not be appointed, struck them with astonishment, and the question was, what shall be done with the unclaimed ashes on hand? as they have been told without they make way with every cask, (within the sixty days allowed them by that section,) returns must be made to both Auctioneer and Comptroller, and the much dreaded oath, No. 175, must be taken, to avoid which inspectors have admitted claims, which I am persuaded the persons to whom "duplicate" bills have been issued would swear, if legally examined, that they had no "legal or equitable right" to, but had merely lent themselves to accommodate inspectors, as they had from time to time accommodated them by issuing copies of bills without the scrapings noted, and altering the brands and bills, &c.

Attempts will be made to palm upon you affidavits, under the 176th section, on the principle that no ashes remain on hand "not claimed by the owner within one year," for which purpose the word "legal" has been declared by Mr. Hart "unnecessary," enabling inspectors to give the spirit of the 174th section the go-by on the "lee side," without you disappoint them.

I am persuaded, sir, it only requires to be apprised of such deceptive operations to induce you to set your face against them, as it will be evident to you that your fund as trustee of proceeds of "unclaimed articles" must always continue unproductive as long as inspectors have the power to issue "duplicate bills" to "convenient friends," and that you will deem it a duty officially to have the Constructive power taken from us by the legislature, and have the 171st and 176th sections amended, compelling inspectors to account with auctioneers for all ashes as "unclaimed," where "legal" title is not shown by the exhibition of the original bills or receipts, leaving the comptroller to judge who has or who has not the legal or equitable right to the proceeds, and that inspectors and ex-inspectors be called upon to account directly with you, on oath, for those already sold or converted by them, (at public or private sale) the proceeds of which the joint committee say they still hold in abeyance.

No person out of an inspection office can have any accurate idea of the proceeds of "unclaimed" ashes, particularly of those placed indirectly in abeyance, (and which should be in the treasury) until inspectors and ex-inspectors are compelled to make disclosures.

I am, sir, your most obedient servant.

(Signed)

R. R. HENRY,

Inspector of pot and pearl ashes.

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[ENCLOSED.]

CITY OF NEW-YORK, ss. *Personally appeared before me, ROBERT R. HENRY, one of the Inspectors of Pot and Pearl Ashes for the City of New-York, who being duly sworn, deposeth and saith:*

That agreeably to the 17th section of "An act concerning the inspection of pot and pearl ashes," passed 5th April 1822, he did, on or about the 21st January 1828, officially report to James Seton, Esq. an auctioneer for said city, that the ashes fit and unfit for inspection, mentioned in Exhibit No. 1, herewith, had not been "claimed or demanded" according to law; that the copies of the invoices or weigh-notes containing the head-marks, weight, quality, time of inspection, &c., are agreeably to this deponent's books of inspection; that the forty casks of pearl ashes marked E D N and C, and A. Babcock, were duly and legally claimed on or before the 22d April last, (the day appointed for the sale) by William Card, Esq. exhibiting the original bills and settling for the charges, consequently no sale was made of them; that the residue seven parcels of crusted ashes (or scrapings) not having been "legally" claimed, were sold at public auction, at No. 33 Front-street, (the day above mentioned) by the order of said auctioneer, from whom this deponent afterwards received \$14 95, his fees and charges, which the auctioneer was authorized to pay him out of the proceeds, agreeably to the 17th section.

And this deponent further testifies, that agreeably to the 171st section of the Revised Statutes, Chapter 17, passed 3d December 1827, he did, on 30th December 1828, officially report to James Seton, Esq. an auctioneer for said city, nineteen casks of pot and pearl ashes, mentioned in exhibit No. 2 herewith, which had not been claimed according to law. That the

copies of the invoices or weigh-notes containing the head-marks, &c. are agreeably to this deponent's books of inspection ; but no sale having taken place, the fees and charges have not been paid by the auctioneer as a matter of course.

And this deponent further testifies and saith, that by the 174th section of the Revised Statutes, Chapter 17, he is required annually, on the first day of January, to transmit on oath to the comptroller, "A duplicate of every invoice or bill of unclaimed articles which, during the preceding year, may have been delivered to an auctioneer, with the amount of fees received by him in the sales from any auctioneer," which report the 175th section imperatively says shall be accompanied with an oath or affirmation that he had delivered to some auctioneer (mentioning his name) "An invoice weigh-note or bill of inspection of all the unclaimed ashes which had been in his hand one year or more, and that among other things that he had duly accounted with the owner or agent, for all the ashes delivered to his care, as the law directs," which requisitions being so unlimited and imperative, renders it indispensably necessary (in the opinion of this deponent) that the legislature should know that a "discretionary power," (not granted in terms by law) has been exercised by him and from which they may judge whether he has or has not transcended the powers vested in him by law, in issuing "duplicate bills" on the mere averment of the parties, "claiming or demanding," as owners, &c. that they had lost or mislaid the original bills or receipts, which implied a "discretionary power" this deponent verily believes to be a dangerous power, and has been exercised in certain cases to defeat the rights of the real owners and their representatives and the people of this state to the unclaimed ashes or the proceeds, (both fit and unfit for inspection) under 12th section of act of 25th February 1813, the 17th section of act of 5th April 1822, the 171st section of the Revised Statues, Chapter 17, but particularly under the recent act of the 14th November 1828, neither of which statutes requires the persons "claiming or demanding" as owner, to show "legal" title, by the exhibition of the original bills or receipts ; consequently, all an inspector or ex-inspector has had to do in case he has not heretofore made his returns as the "law directs," is to have an understanding, with his clerk, foreman, or other "convenient friend," to claim or demand the ashes on hand on giving satisfactory guarantees to indemnify him in case the original vouchers should ever appear ; or if sold by a broker, clerk, &c. to take an acknowledgment from the person claiming as owner for the proceeds under the 5th section, being permitted by said section to sell ashes and pay the proceeds to the person claiming as owner, constituting the inspector instead of the comptroller the judge of the legality or equity of the claim, contrary to the wise policy of all former laws on the subject, which forbade the inspector dealing directly or indirectly in ashes, by which fines-ses or evasions of law the inspector frees himself from the necessity of making a report to an auctioneer and comptroller under the 171st, 174th, and 175th sections of the Revised Statutes, chapter 17, and the 1st and 4th sections of the act of 14th November 1828 ; consequently he has no unclaimed ashes, fit or unfit for inspection, to report to an auctioneer, nor proceeds to deposit in the treasury.

And this deponent further testifies and says, that on examination of the statutes of 1813, 1822, 1827, and 1828, it will be found the legislature have taken it for granted that the party "claiming or demanding" ashes (fit or unfit for inspection) or the proceeds, would be the "legal" or bona fide owner ; consequently they have not required the owner to show "legal" title of course, and have left the dangerous power (so open to abuse) in the hands of inspectors, who have the discretionary right to insist upon or dispense with the exhibition of the original bills or receipts, which in fact has placed and does place the "trust ashes" at the command of the inspector, who could at any time use them by issuing "duplicate" bills to a broker or "convenient friend," to sell as



his own, supplying their place by substitution when called for, enabling the inspector indirectly to render the laws relating to unclaimed ashes a "dead letter" whenever it suited his interests or convenience, or that of others both in and out of the offices, a temptation frequently too strong to be resisted when pressed for temporary funds, as such illegal operations may be carried on with perfect safety, by the exercise of common discretion, until the 171st and 176th sections in the Revised Statutes, chapter 17, are amended, requiring the broker or "confidential" friend to whom duplicates are issued, to show "legal" title, by the exhibitions of bills or receipts.

And this deponent further deposes and says, that the only "duplicate" bills which he has issued upon the "averment" of the parties claiming as owners, that they had lost or mislaid their original bills between the 16th August 1824 (when he was appointed an inspector) and the date of this affidavit, are for the one hundred and two casks of ashes mentioned in exhibit No. 3, which "discretionary power" this deponent verily believes, by fair construction, vested in him; and he further testifies, the transactions between him and Messrs. Charles W. Woolsey, & Co., Boyd & Suydam, and Thomas Irwin, & Co., were bona fide transactions; that there was not directly or indirectly any collusion or understanding between him or either of them in issuing "duplicate bills" to defeat the rights of the real owners, or the people of this state, in the ashes or the proceeds as escheats, or to enable this deponent to avoid making the reports (and affidavits) required from him by law to auctioneers or comptroller, but which had it not been for the issuing of "duplicate bills" to the persons named, he would have been compelled to report to an auctioneer as unclaimed ashes, when consequently the comptroller instead of himself would have had to decide on their "legal" or equitable claims to the proceeds under the statutes then in operation, which would have been the case had not the standing and character of the parties forbade my refusing them guarantees, as it would have been supposed I wished to take advantage of their misfortunes, and have the use of the proceeds until their bills were found, which could have been effected by issuing duplicate bills to a broker, &c., and withholding the report from an auctioneer, under the 17th section of act of 1822, and the 171st section of the Revised Statutes, chapter 17.

And this deponent further testifies and says, (in conformity to the 174th and 175th sections of the Revised Statutes, chapter 17) that he has reported all unclaimed ashes (whether fit or unfit for inspection) which were in his possession "one year or more," to James Seton, Esq. an auctioneer, as mentioned in Exhibits No. 1 and 2, herewith, which this deponent verily believes to be all the ashes not "legally" claimed by the production of original bills or receipts with the exception of the 102 casks mentioned in Exhibit No. 3, for which "duplicate" bills as above were issued.

And this deponent further testifies, in compliance with the requirements in the 175th section, "That he has duly accounted with the owner or agent for all ashes delivered to his care as the law directs; and that he has not by himself or any person in his employ, made out any invoice, weigh-note, or bill of inspection, of a later date than the time such ashes were duly inspected, and that the same were emptied out of the cask or casks and duly examined at the date of every such invoice, weigh-note, or bill of inspection."

And this deponent further testifies and says, that he has not by himself or any person in his employ, ever issued a copy of a bill under the act of 5th April 1822, (which expired on 30th April last) without first noting the scrapings or crustings on the margin of his inspection book, (the book kept by him for that purpose) agreeably to the spirit of the 3d section, and on the copy of the invoice or weigh-note of the potashes from which they were taken, agreeably to the 5th section of said act, neither has he directly or indirectly (since he has been in office) used any ashes as substitutes, (with the

exception of one cask scrapings) neither has he used the proceeds of ashes fit or unfit for inspection directly or indirectly, (stored with him for inspection or otherwise) and that in all his official acts, to the best of his knowledge and understanding, he has conformed to the spirit, if not the exact letter of the inspection laws.

(Signed)

R. R. HENRY.

Sworn before me this 1st January, 1829,

WASHINGTON M. HUXTON,  
Commissioner, &c.

Forwarded by Mr. Dayton, of the Assembly.

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*To Robt. R. Henry, Esq., Inspector of Pot and Pearl Ashes.*

COMPTROLLER'S OFFICE, ALBANY, JANUARY 3, 1829.

Sir,

I understand that doubts exist in the minds of some of the inspectors of pot and pearl ashes as to the statutes now in force relative to their official duties.

Chapter 17 of the Revised Statutes, "of the regulations of trade in certain cases," which went into operation on the first day of May last, contains most of the provisions relative to the inspection of ashes. This will be found in article 3 and 12 of title 2 of this chapter.

There is another law passed at the recent session of the legislature on the subject now in force. The 17th chapter has once been distributed to the several officers to whose duties it has relation, and extensively published in a volume of the Revised Statutes.

All are, or can make themselves, familiar with its provisions; but as the statute recently enacted has only been published in the state paper, I shall therefore subjoin a copy to this letter, and solicit from inspectors a compliance with its requirements. The last act went into operation on the day of its enactment.

I am, with great respect, your obedient servant,

W. L. MARCY.

*Memorandum.*—It is scarcely to be credited, that with the above circular (with the act of November<sup>d</sup> 14, 1828 subjoined) my answer to Comptroller Marcy, of January 13, 1829, my letter to him of October 22 and 23, 1828, the letter and affidavit of January 1, 1829, and my letter and affidavit dated the 21st day of January, 1829, (delivered by Henry Yates, esq.) to Comptroller Wright himself all before him, no doubt, that he should have the hardihood to sit down and deliberately write the following circular. The comptroller had the grace not to send me one, and it was by accident I discovered that my coadjutors in office, (and others) had received circulars, as they kept it a profound secret from me, knowing full well, that instead of a circular it was the comptroller's imperative duty to report them, under the 177th section of the Revised Statutes, chapter 17 to District Attorneys, on which subject I refer specially to what I say to Comptroller Wright in my letter of January 21, 1829, showing, that on that day, inspectors of "provisions, produce, and merchandise" were apprised of Comptroller Marcy's circular, and the alteration of the penalty in the 177th section made by the 11th section of act of November 14, 1828. I run no risk in saying, that the warmest friend of Comptroller Wright will not excuse him when all the facts are known.

## [CIRCULAR.]

COMPTROLLER'S OFFICE, ALBANY, JULY 11, 1829.

Sir,

The following law, passed at the last November session, not having been circulated except in the ordinary manner of circulating the laws, I have thought proper to have copies sent to the officers whose duties it importantly concerns, that they may not neglect its provisions from an ignorance of them. A careful attention to the provisions of the law will be important to inspectors and auctioneers, as the most rigid adherence will be required.

Very respectfully, your obedient servant,

SILAS WRIGHT, Junr.

## [SUPPRESSED.]

*To Wm. L. Marcy, Comptroller of the State, Albany.*

NEW-YORK, JANUARY 13, 1829.

Sir,

I was yesterday favoured with your circular to inspectors of pot and pearl ashes, relative to the returns required under the "General Provisions" in the Revised Statutes, chapter 17, passed December 3, 1827, and to which you subjoin a copy of

"An act respecting the inspection of pot and pearl ashes, and the duties of inspectors and auctioneers," passed November 14, 1828.

As early as the 22d of November last, I had read the law (of 14th), previous to which I had prepared my report to an auctioneer under the 171st section, but with the hope that the owners would appear and claim before the 1st of January, (by presenting the original bills) I deferred delivering the notice to the auctioneer till nearly the last moment of limitation under the Revised Statutes, as I did not wish to put them to any expense which I could legally avoid, consequently I did not deliver it to James Seton, Esq., the auctioneer, until the 30th of December last.

On comparing the three first sections of the act of November with the 171st, 172d, and 173d of the Revised Statutes then and now in full operation, I could see no substantial difference between them, with the exception of the period for reporting to an auctioneer (from the 1st to the 14th of January, say 60 days) the residue differences being in fact the mere transpositions of a few words to give the sections the appearance of novelty.

Under these apparently non-essential differences was concealed a deep finesse to carry inspectors beyond the 1st of January, between which period and the 14th an inspector general was, it is said, to have been appointed (from among inspectors, ex-inspectors, clerks, or agents) when as private citizens it would have been optional to make or withhold reports to auctioneers as might suit their interests or convenience. The concluding paragraph in the Hon. Truman Hart's report as chairman of the joint committee, will throw some light upon the subject.

Not having any special reason to wish to protract making my report to an auctioneer beyond the 1st inst. I made it to James Seton, Esq. on the 30th of December, and on the 1st instant made my report and affidavit re-



quired by the 174th and 175th sections to you officially, which I forwarded the ensuing day by a gentleman, who I understood to be the Hon. Mr. Dayton, a member of the assembly, and as I take it for granted you are in possession of the papers, I now refer to its contents for particulars.

Should, however, any accident have prevented your receiving the report and affidavit, another shall be forwarded if made known to me, but having, as I suppose, substantially complied with the requirements of the Revised Statutes, any additional return under the 1st and 4th sections, would be surplussage, being enjoined by the 6th section strictly to comply with the 171st, 174th, and 175th sections (under a heavy penalty) which done, it supersedes the necessity of a compliance with similar duties enjoined in the act of November.

In a conversation with a person intimately conversant with the operations of the inspection business, I mentioned to him that the operation of the 5th section was to legalize all the illegal sales and conversions made previous to the 14th of November, and up to the 14th of January instant, when it would be optional in inspectors and ex-inspectors to pay any sum they thought proper into the treasury as the balance of proceeds of ashes sold or received, or to aver I have none in hand, having paid all over to the owner or owners. Not aware of the amendments made in the assembly to the 6th section, and the increase of the penalty of the 177th section, to \$2500 and imprisonment, he admitted such was the intended operation of the section.

The fact is, sir, the friends of inspectors (agents, brokers, and others) particularly Mr. Snow's, have so frequently asserted that he had sold and purchased ashes both fit and unfit for inspection, that they were bound in honour to get a section passed that would legalize them and release him and others from the pecuniary penalties for such illegal acts, although the moral guilt must remain a blot on their escutcheons. The repeal of the 5th section will however defeat the plan entirely.

Will you have the goodness to lay my communication of the 22d and 23d of October last, the letter of the 1st instant, (and the report and affidavit enclosed) with this letter, before the select committee on the governor's message on the Revised Statutes, and they will quickly see the wisdom of his remarks, that as a "general rule a discretionary power cannot be confided to any one, without danger of abuse;" and should they have any "doubts" on the subject, the documents in the hands of the chairman of the joint committee and on the executive files will dissipate them.

I am, very respectfully, sir, your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

NOTE.—To show the absolute necessity of a "careful revision of the statutes," relating to inspection generally, I will give you a strong case in point, out of hundreds which might be mentioned. Since 1809, little or no attention has been paid in Albany to branding of casks; in fact the old laws have been a perfect "dead letter."

I thought the 64th section had been attended to in Albany until the evening of the 25th of November last, when a large quantity of ashes was landed unbranded. Col. Jeromus Johnson, (one of the committee appointed to confer with me by the chamber of commerce) knows the fact, having ocular demonstration on the subject, as had Capt. Barnum Whipple.

I aver, that private marks are used instead of brands, on which subject I refer to the letter to lieut. gov. Pitcher, dated 11th November last. Concealment of inspectors' names, places of inspection, quality, &c. What can all this mean? On the very face of the transaction there is something radically wrong.

[SUPPRESSED.]

NEW-YORK, January 21, 1829.

Sir,

I wrote your predecessor, W. L. Marcy, Esq. on the 13th instant, in answer to his official circular of the 8th inst. to inspectors of pot and pearl ashes, but on reflection, not deeming it a sufficiently formal return under the law, I now enclose you an affidavit on the subject, and refer for some very important particulars relative to unclaimed ashes, &c. to my letter (with enclosures,) of 22d and 23d October last, to the report, affidavit and letter of the 1st instant, and the above enclosed.

I wish to draw your particular attention to the 175th section of the Revised Statute, chapter 17, and the 6th section of the act of 14th November, 1828, as I predict attempts will be made to palm on you the affidavit under the 4th section, unaccompanied by the all important affidavit required by the 175th section.

I know of so many frauds practised under spurious "duplicate bills," issued to persons who, I am persuaded, have no legal or equitable title to the ashes, that I deem it a duty to apprise you directly of the abuse of the "discretionary power," which ought not to be entrusted (without limitation) to any one, otherwise it will be (as it has been) used for the most illegitimate purposes. In haste, I am very respectfully, sir,

Your most ob'dt. serv't.

(Signed)

R. R. HENRY,

Inspector of Pot and Pearl ashes.

Comptroller of the State, Albany.

[NOTE.]

On examination you will find that, "every inspector of Provisions, Produce, and Merchandise" are bound to report to the Comptroller under the 174 section, annually, or to file the affidavit required by the 176th section; but I understand no report will be made but under the 185th section, to the legislature, as inspectors are under the impression that the forfeiture for neglect, is still only 250 dollars.

A person attached to an office was astonished (on recently reading the Comptroller's circular of the 8th inst.) to find that by the 11th section of the act of 14th November last, the revisers had been directed to raise the penalty of the 177th section from 250 dollars to 2500 dollars, and imprisonment for a year, and probably that after the 1st February, that district attorneys would have official directions to move against delinquent inspectors, the law being imperative on the subject.

I wish to draw your particular attention to the reports of Messrs. Robert Snow and William Dumont, to W. W. Whitmore, Esq. the auctioneer, (published in the New-York Enquirer, of the 17th inst.) by which they stand "self convicted" of the violation of the 3d, 5th and 17th sections of act of 5th April, 1822.

The fact is, the reports would not have been made had not the inspectors been under the impression that you would not be aware that the reports under the 4th section, must be accompanied with the additional affidavit required by the 175th section.

The dates when the scrapings or crustings were made, Mr. Snow says are not recollected. How does this comport with the 3d and 5th sections above alluded to?



If inspectors were legally asked, "Are the ashes, fit and unfit for inspection, (reported to Mr. Whitmore) all the unclaimed ashes?" The reply would substantially be, "All that have not been previously sold, or converted, or used under duplicate bills, and what remains on hand on the 14th May next, not paid to the owner, will be paid into the treasury." How much do you suppose? Not a cent, for it would be making a very unpleasant admission indeed.

Knowing to a certainty that inspectors frequently did "remember to forget" to note the scrapings taken out of absentee's casks on the copies, I sent one of those inspectors a copy of the instructions given me by Messrs. Nicholas Devereaux & Co. for his information. It is so highly creditable to those gentlemen, that I cannot withhold it, being my rule ever since, with the 3d and 5th sections.

Dear Sir,

We received some days since, your inspection bill of ashes, dated 25th July; for the future the ashes you may inspect for us, you will please have the name in full on the copy opposite the number. You will oblige us by being as exact and particular in this respect as possible. The barrels marked H, make out in separate bills; in the bill received there are four barrels of this mark included with those without.

Very respectfully, we are  
Your ob'dt. serv'ts.

(Signed)

NICHOLAS DEVEREAUX & CO.

Utica, September 8th, 1825.

P. S. When ashes cannot be put back into the same barrel we want a memo on the copy of the quantity, and should it be put into another barrel, it is necessary we should know it. We take ashes from different owners, and it is right that we should have the return of each barrel.

N. D. & CO.

From which it appears that N. D. & Co. are not advocates for a "general average" system, giving a man entitled to one half percent. say three per cent.; and one entitled to sixteen and one ninth per cent. the same: the height of injustice in my opinion, even if made.

My hypothesis has been, and is, that all ashes which by accident or design, were not reported in the copies, if not claimed by the country owner, become "unclaimed" ashes, and should have been reported as such to an auctioneer, whether held directly or indirectly in abeyance.

The aggregate loss to the country owner has been enormous within the thirty consecutive years past, considering the average of unmerchantable ashes, scrapings, &c. is fifteen and one sixth, lb. per cask, or three per cent.; shewing the necessity of the amendment proposed by me in my memorial of 16th October last, requesting the inspectors to certify the copies to be true, which with others equally important, was through "Back stairs" or "Lobby" influence rejected.

(Signed)

R. R. HENRY,  
Inspector of Pot and Pearl ashes.

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[ENCLOSED.]

CITY OF NEW-YORK, ss.

Personally appeared before me, Robert R. Henry, one of the inspectors of pot and pearl ashes for the City of New-York, who being duly sworn, deposeth and saith:

That agreeably to the 171st section of the Revised Statute, chapter 17, passed 3d December, 1827, he did on the 30th December, 1828, officially report to James Seton, Esq. an auctioneer for said city, nineteen casks of pot and pearl ashes, which had not been claimed within the period required by law; that he furnished the auctioneer with the invoice or bills, required by the said section, and that the ashes mentioned in the report and bills were all the ashes, to the knowledge of this deponent, in his possession, or in the possession of any other person or persons for him, which had not been "legally" claimed by the production of the original bills or receipts, or had not been previously reported and sold by an auctioneer, according to law.

And this deponent further testifies and says, that by the 174th section of the Revised Statute, it is enacted, "Every inspector shall annually, on the first day of January, transmit on oath, to the Comptroller, a duplicate of every invoice or bill of such articles which, during the preceding year, may have been delivered to any auctioneer, and the amount received by him on the sales of any such articles from any auctioneer."

And this deponent further testifies and says, that it was represented to the honorable James McCall, (from the western district,) that certain malpractices existed in inspection offices, among which was the withholding returns of scrapings or crustings "on the copies of the invoice or weigh note of the potash, from which it was taken," contrary to the 3d and 5th sections of the act of 5th April, 1822, and further, that the returns of unclaimed ashes had, for many consecutive years, been also illegally withheld from auctioneers, contrary to the 12th section of the act of 25th February, 1813, and the 17th section of the act of 5th April, 1822, in consequence of which representations, the 175th section of the "general provisions" of the Revised Statute, chapter 17, article 12, was made specially to apply to inspectors of pot and pearl ashes.

"Every such report, (under the 174th section,) shall be accompanied by an oath or affirmation, taken and subscribed before some proper officer, that he has delivered to some auctioneer, (mentioning his name,) an invoice, weigh note or bill of inspection of all unclaimed ashes which had been in his hands one year or more, and that he had duly accounted with the owner or agent for all the ashes delivered to his care as the law directs, and that he had not by himself or any other person in his employ, made out any invoice, weigh note or bill of inspection of a later date than the time such ashes were duly inspected, and that the same were emptied out of the cask or casks and duly examined at the date of every such invoice, weigh note or bill of inspection."

And this deponent further testifies and says, that on the first day of January instant, he did transmit to the Comptroller, the duplicate bills, and the statement of monies received from sales as required by the 174th section, and accompanied them with the affidavit, as above imperatively required by the 175th section, which report he forwarded under cover to Wm. L. Marcy, Esq. Comptroller, by a gentleman who he understood to be the honourable William Dayton, of the Assembly, and to which he refers for particulars.

And this deponent further testifies and says, that on the 12th January instant, he received by mail an official letter from the Comptroller, dated "Albany January 8, 1829," to which was subjoined the copy of "An act respecting the inspection of pot and pearl ashes, and the duty of inspectors and auctioneers," passed November 14th, 1828, in which he officially calls on this deponent for "A compliance with its requirements," that on comparing the first four sections of the act with the 171st, 172d, 173d and 174th sections of the Revised Statute, chapter 17, he found the requirements to be substantially the same, with the exception that the period for

making returns to an auctioneer, was extended to the 14th January inst. and to the Comptroller to the 1st February next.

And this deponent further testifies and says, that for the purpose of ascertaining whether he had omitted to report any unclaimed ashes, fit or unfit for inspection in the report made to James Seton, Esquire, on the 30th December last, he re-examined his books of inspection, and can find none to report to an auctioneer under the 1st section of the act, consequently he has no report, statement or affidavit to transmit to the comptroller, under the 4th section of the act of 14th November last.

And this deponent further testifies and says, that by the 6th section of the act of the 14th Nov. last, it is enacted "Any violation of the preceding sections, or of the 171st, 174th, 175th or 176th sections of chapter 17, title 2, of the Revised Statutes, shall be misdemeanor punishable by a fine not exceeding 2500 dollars, and by imprisonment not exceeding a year."

And this deponent further testifies and says, that having made his returns to an auctioneer and the comptroller under the 171st, 174th and 175th sections of the Revised Statute, he is exempted from filing the affidavit required by the 176th section, that it being expressly forbidden (under heavy penalties,) by the 14th section of the act of 5th April, 1822, and the 76th section of the Revised Statute, chapter 17, for an inspector to buy or sell, or deal directly or indirectly in ashes, fit or unfit for inspection, this deponent has no proceeds of ashes sold or received by him to pay over to the treasurer of this state; nor to an owner under the 5th section, he having already, to the best of his knowledge and belief, duly accounted for all ashes of every description delivered to his care, since he became an inspector on 16th August, 1824, if not agreeable to the exact letter, he has to the spirit of the inspection laws, and that, whenever he has exercised the "discretionary," (or "constructive") power, of issuing "duplicate" bills, (mentioned in his exhibit, No. 3, and transmitted to the Comptroller on the 1st instant,) the transactions were bona fide ones, no collusion or understanding whatsoever existing to defeat the rights of individuals, or the people of the state between him or any person, directly or indirectly, in or out of his inspection office, and further this deponent saith not.

(Signed)

R. R. HENRY.

Sworn the 21st January, 1829, before me,

J. HAMMOND,

Assistant Justice, and Justice of the Peace.

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[SUPPRESSED.]

After the words "A practice," and "Independently." See journals of Senate and Assembly 4th and 6th February 1829, pages 153 and 389.

*To the Legislature of the State of New-York in Senate and Assembly convened.*

The Report of Robert R. Henry, one of the Inspectors of Pot and Pearl Ashes for the City and County of New-York, under the 185th section of the General Provisions of the Revised Statutes, Chapter 17, Article 12, passed 3d December, 1827,

*Respectfully sheweth,*

That between the 1st January 1828 and the 1st January 1829, he inspected, according to law, the following quantities of pot and pearl ashes, and the scrapings or crustings of ashes, viz :



Casks.		cwt.	qrs.	lbs.		
1108	1st potashes	4995	1	0	N.	
18	2d do.	74	0	4		
2	3d do.	8	3	9		
598	1st pearlashes	2069	3	1		
1	2d do.	3	0	12		
						Fees.
1727	casks pot and pearl.	7150	0	26	at 11 c. per cwt.	\$786 60
39	do. scrapings	147	2	3	at 12 1-2	18 46
1766	in all	7298	2	1	N. gross fees,	\$805 06

Which ashes were inspected in the months of January, February, March, and April last, and the following estimate will show pretty nearly the real average value :

Casks.		cwt.	qrs.	lbs.		
1128	potashes	5078	0	13	at 42	\$26,660 12
599	pearlashes	2072	3	13	at 43	11,141 61
39	scrapings	147	2	3	at 26	479 47
1766	casks ashes	7298	2	1	average value	\$38,281 20

Independently of the fees above mentioned, (eight hundred and five dollars and six cents) the inspector is required to report the "emoluments derived from his office," which I state (exclusive of fees) at seventy-nine dollars and fifty cents, derived from extra cooperation, condemned casks and hoops; but as I suppose the storage on ashes not to be an "emolument," but a "set-off" against the enormous rent (\$1100 and taxes) which I had to pay, I do not include it; but should it be deemed such, I estimate the storage received in 1828 by me to be nearly equal to a quarter's store-rent.

A practice has existed for "between 20 and 30 years past," of withholding returns of unclaimed ashes both fit and unfit for inspection, and making away with them privately and illegally, (in various ways) under the "constructive" or "discretionary" power, by issuing "duplicate" and "supplementary" bills to brokers, clerks, &c. (who showed no "legal" or equitable title) under various pretexts, such as, that the ashes "had suffered by keeping," and that the inspector "wished to supply their place" with merchantable ashes when "called for;" consequently, when by any casualty, such as death, the loss of bills, receipts, &c. the owners or their representatives have not appeared to "claim;" the ashes or proceeds to an immense amount have escheated (or fallen in) to inspectors and ex-inspectors, instead of the people of the state, contrary to the evident intention of the legislature expressed in the 12th section of the act of 25th February 1813, the 3d, 5th, 14th and 17th sections of act of 5th April 1822, the 76th, 171st to the 176th sections of the Revised Statute, chapter 17, relative to such "contingent remainders."

As I have always deemed the issuing of "duplicate" or supplementary bills to clerks, brokers, or other "convenient friends," (who showed no "legal" or "equitable" title to the "unclaimed property") to be deceptive, I have always pronounced such transactions to be constructive, legal, or moral frauds, and have brought the fact that such acts have existed to the knowledge of the comptroller, (as trustee to the fund) for the purpose of having that dangerous "discretionary" power taken from inspectors, and that they may be called on by law to follow my example of furnishing the comptroller with a detailed statement on oath of the "duplicate" or supplementary bills they have issued, when, to whom, &c. and what disposition has been made of the proceeds, what proportion is held directly and what indirectly in abeyance

At least two hundred thousand dollars should have been deposited

within the 30 consecutive years past, in the treasury, as the proceeds of unclaimed ashes illegally withheld from the unfortunate owners and the state, whereas not \$750 will be found there. As I take it for granted the comptroller will lay my letters, affidavits, &c. (dated 22d October, the 1st, 13th, and 21st instant) before the select committee appointed on the Revised Statutes, I shall merely refer to them for particulars, instead of repeating the contents.

A "discretionary" power with "trust property" cannot be entrusted to any one without danger of abuse, and should be taken from inspectors without the least delay. Should there be any doubts that the power has been abused, the documents in the hands of the chairman of the joint committee (or my memorials and Report of 3d April and 8th and 16th October last) and the executive files will show, if not the examination of clerks, of inspectors, and ex-inspectors, would conclusively establish the truth of the allegations; but our own declarations would do that, if the comptroller (as I proposed in my amendments, &c.) should be directed to call upon us to account directly on oath to him.

The reason for the great disproportion between the ashes reported by me and my coadjutors in office, will appear from my report, (printed by order of the Assembly on 20th October last, No. 1) and a memorial which I contemplate forwarding to the Legislature, praying (for reasons that will be given) that inquiry might be made into the motive of the Hon. Truman Hart reporting, (as chairman of the joint committee,)

"Inasmuch as the Revised Statutes are not understood as requiring the inspectors to account for unclaimed ashes previous to the first day of May last, your committee had thought fit to provide for the case."

If the first four sections of the Hon. Truman Hart's bill are collated with the 171st, 172d, 173d, and 174th sections of the Revised Statute, Chapter 17, Article 12, "General Provisions," (then and now in full operation) they will be found (with the transposition of a few words to give them the appearance of novelty) to be substantially copies, with the exception that inspectors are given from the first to the fourteenth instant to report to auctioneers, and from the first of January instant till first of February ensuing to report, &c. to the comptroller, all which was done for the purpose of introducing into the law the 5th section, which legalizes all the illegal sales and conversions made within the 40 consecutive years past; overturning, with the stroke of a pen, the entire system of policy on which the former laws were predicated.

As I shall go into details on the subject in the memorial, (and prove the fact from the laws beyond the possibility of contradiction) I shall refer to it for particulars.

The collector of this port has to disclose, in a newspaper, every nine months, the head-marks, &c. of all unclaimed property in his possession,—and we inspectors every twelve months. What I respectfully ask would be said and done to Mr. Thompson, if it was found he had systematically neglected to perform so important a duty, and particularly if it was found he had illegally disposed of the property (in whole or in part) for his own benefit or that of others, instead of depositing the proceeds in the treasury, as is imperatively required by law? The reason for his "neglect" of duty would, at least, be inquired into.

By the 185th section, the inspector is required to communicate in his Report

"Such information possessed by him as may tend to the improvement of the quality, or increase the quantity of the articles subject to his inspection."

In my memorial of the 8th October last, I took up the inspection law by sections, pointed out the defects in many of them, and suggested amendments, every one of which were rejected in the bill as reported by

the Hon. Truman Hart save one as to the size of casks, in the 63d section. Some of the amendments proposed are so self-evidently necessary, that I beg leave now to refer to them. I will mention one or two, and refer to the memorial for the rest.

The copies of bills issued from inspection offices are not signed by the inspector; consequently no official responsibility attaches to him. I proposed that we should certify, under our hand, that the copies contained the weight of all the ashes both fit and unfit for inspection. Until I personally interfered, not one copy in twenty was a true report, the unmerchable ashes (scrapings, 3 per cent.) being frequently and designedly omitted.

I am opposed to this on principle, and because the ashes withheld have been sold on "duplicate" or supplementary bills, (to my certain knowledge) by clerks and other agents, violating of course the 14th section of the act 5th April 1822. The withholding returns of scrapings and selling them, lead to the withholding the "unclaimed" ashes as a natural consequence.

No inspector of "provisions, produce, or merchandise," in my opinion, should be allowed the least "contingent income;" (as from ashes fit or unfit for inspection) but if by accident or design he has omitted to make returns, he should be compelled to report them as unclaimed property, so that if the owner must lose them, the beneficial interest should inure to the state and not to the inspector. Omissions would then seldom be made again.

As lately as 25th November last, I saw a large quantity of Albany inspected ashes landed here unbranded, and with the private marks on them no doubt. The Legislature cannot too soon put a stop to the practice, because such ashes have been frequently passed here without examination. I refer to the copies of documents on the executive files on the subject as far back as 9th and 13th June 1825, and to others of recent dates to the Joint Committee, the Lieutenant Governor, and Comptroller.

I have a deep interest in perfecting the inspection system generally, as I may be compelled again to become a dealer in "provisions, produce, and merchandise," having given great offence to inspectors and their powerful partisans, from my unyielding adherence to the law, and the part I have taken in procuring amendments, particularly in raising the penalty of the 177th section to \$2500 and imprisonment in case returns are not made agreeably to the 171st, 175th, or 176th sections, without which had been done the inspection law would be practically a mere "dead letter," as every inspector extensively in business would have preferred paying the \$250 rather than have the trouble of reporting, (to the auctioneer and comptroller) and particularly as it covered all errors made during the year (whether wilful or accidental) by himself or his subordinates.

In the report of the Honorable Truman Hart, on 30th October last, (printed by order of the Assembly, 4th November last, No. 2) he says,

"There is no doubt but many inspectors are in possession of large sums arising from unclaimed ashes."

Which report was accompanied with his bill, the 5th section of which legalizes all such sales of ashes made directly or indirectly by "an inspector or person having been an inspector," provided they will now pay over to the owner or the treasurer the proceeds within six months without interest, having had the use of the funds many years.

For the purpose of bringing themselves under the operation of the 5th section, and to falsify my assertion that it would require a gazette of the size of Lang's to contain the head-marks, &c. of unclaimed ashes to be reported by Messrs. Snow, Cooper, Remsen, and Dumont, "duplicate bills" have, I aver, been issued to persons who showed no "legal" or equitable right, but on the mere averment that they were the "owners;" the conse-



quence is, that all the unclaimed ashes unsold have been reported in Noah's Enquirer of the 17th inst. in a very short space indeed.

If inspectors are asked, Was any "legal" title shown? The reply would be, the Legislature having sanctioned the report of the Joint Committee, declaring the word "legal" to be "unnecessary," I consequently am sole judge as to the "legality" or equity of any "claim," and have the right to insist upon or dispense with the production of the original bills or receipts at my pleasure. I ask respectfully, will the Legislature allow the 5th section to have its full operation, when it can be "legally" repealed, and inspectors called upon to render an account of the "duplicate" bills issued? I have been told of a "duplicate" bill issued for 95 casks and 20 casks, &c. to persons who had no right to the property to hold till defunct owners appeared to claim. Returns to the comptroller, on oath, would develop a state of things not dreamt of by the Legislature. By an inspection of the 5th section, it will be found that the mere averment of an inspector or ex-inspector that he has paid the proceeds of ashes "sold or received" to the owner, is *prima facie* evidence that he has done so until the contrary is shown, no oath or other evidence being required, that he has actually done so. In fact, as the section now stands, an inspector or ex-inspector can act and do as he chooses as to the proceeds of ashes sold.

It frequently happens that when the interests of private individuals suffer, the public is benefited. Shortly after I became an inspector, 148 casks of ashes were passed here, by a foreman or clerk, in two hours, (agreeably, I presume, to the Albany private marks) see letter on executive files dated 13th June 1825, at an expense of one tenth it would cost me, so that all fair competition was out of the question, unless I put a stop to the practice. "Lobby influence" has as yet been too powerful for me. The fact that such a practice existed, I take it for granted will not be denied. Again:

Application was made to inspect a large quantity of ashes, (then on the dock) the bills to be ready by "coffee-house hours." The applicant was told that was impossible. He however found ways and means to have his bills by the time. It appears all that was wanted was the re-weighing the casks, (so as to get New-York bills of inspection) the motive for which may be got at by referring to letters to the Hon. Mr. Johnson and Lieutenant Governor Pitcher, dated 8th and 11th November last, and to the executive files, &c.

I repeat, too severe a punishment cannot be inflicted on inspectors who pass ashes without examination, or suffer them to be taken from the office unbranded, because such practices strike at the root of the inspection system. I proposed amendments to correct such proceedings, but they were rejected through the same "lobby" influence.

Intimation has been frequently given, (both in and out of my office) if I would only do as others did, my business would be unbounded. My reply however has been substantially, that I would do nothing but in strict conformity to law; consequently I have been told by friends (as there was no friendship in trade) my patrons would become less and less every day; that I was an excellent inspector for the purchaser, but the reverse for the seller; and confirming the threat mentioned by me in my letter to the Hon. Cadwallader D. Colden, as far back as the 29th March, 1825, that "I would have to conform to the old inspectors' mode of doing business, otherwise hold an office without patronage," which I told him I thought "A pretty hard case with the law in my favour."

Individual suffering is nothing to the public, if they do not suffer in consequence of it.

The evidence that my allegations are true, will be exemplified in the attempts that will be made to smother inquiry into their truth or

falsity, although the charges so deeply affect character both public and private.

All which is respectfully submitted,

(Signed)

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

New-York, 24th January, 1829.

NEW-YORK, 24th JANUARY, 1829.

Sir,

I enclose you my report as inspector of Pot and Pearl Ashes for the city of New-York, under the 185th section of the Revised Statutes, Chapter 17, Article 12, passed 3d December 1827.

I am very respectfully, Sir,

Your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

The Honourable Speaker of the Assembly, Albany.

Per William James, Esq.

NEW-YORK, 31st JANUARY, 1829.

Sir,

The above is a copy of my letter to the Speaker of the Assembly, enclosing my report under the 185th section of the Revised Statutes, which was delivered to William James, Esq. (of the house of William & John James, of this city) on board the steam-boat Commerce, on the 24th inst.

Not seeing it noticed in the minutes of the Assembly this week, I am to presume it has miscarried.

I enclose you the duplicate, which please to have presented to the House over which you preside.

In great haste, I am, Sir,

Your most obedient servant,

(Signed)

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

To the Honourable the President of the Senate, Albany.

Per mail.

[SUPPRESSED.]

*To Green C. Bronson, Esq., Attorney General, Albany.*

NEW-YORK, FEBRUARY 7, 1826.

Sir,

By the 186th section of the Revised Statutes, chapter 17, "General Provisions," every inspector has on or before the 1st day of February, in each year, to make the report to the legislature required by the 185th section, if not, for each offence he forfeits \$200, which you are officially directed to prosecute him for on behalf of the people.

Having transmitted all the reports and affidavits required by the Revised Statutes and the act of the 14th of November last, previous to the 25th

ult. (to the comptroller and legislature) I supposed that the one required by the 185th section (forwarded by a private conveyance) had reached its destination, but finding no mention of it in the reported proceedings of the assembly, I forwarded a duplicate copy on the 31st ult. to the "president of the senate," which not being reported on the 3d inst. I am technically a defaulter; but to show you, sir, that I have endeavoured to do my duty, and am not equitably a delinquent, I send you the enclosed affidavit.

The fact is, any omissions of duty on my part, would be inexcusable, considering that several of the sections on the "General Provisions" were introduced for me by the Hon. James M'Call, and recently the penalty in the 177th section was increased from \$250 to \$2500 (and imprisonment) at my special instance and request.

I take it for granted, the duplicate per mail will be received. In haste,

I am, very respectfully, sir, your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

City of New-York, ss.

Personally appeared before me, Robert R. Henry, one of the Inspectors of Pot and Pearl Ashes, for the City of New-York, who being duly sworn, deposeth and saith,

That by the 17th section of "An act concerning the inspection of pot and pearl ashes," passed April 5, 1822, the inspector is imperatively required to report to an auctioneer all ashes (whether fit or unfit for inspection) as "unclaimed," which had "not been claimed or demanded within one year from the time the same should have been inspected," that in compliance with the requirements of the statute, he did, on or about the 22d of September, 1826, report a quantity of ashes as "unclaimed" to Martin Hoffman and Sons, the auctioneers, which ashes were advertised by them for sale in the New-York Daily Advertiser, and in the state paper, a copy of which advertisement will be found in his report dated 16th of October last, printed by order of the assembly, on the 20th October last, No. 1.

And this deponent further testifies and says, that on or about the 21st of January, 1828, he made a further report of "unclaimed" ashes to James Seton, Esq. the auctioneer, which will be found published in the New-York Morning Courier and the state paper, a copy of which advertisement will be found printed in the report above mentioned, and to which he refers for particulars.

And this deponent further testifies and says, that by the 171st section of the Revised Statutes, article 12, chapter 17 of the "general provisions," passed the 3d of December, 1827, every inspector is also directed to report to an auctioneer all articles "subject to inspection" stored for inspection and not claimed by the owner within one year, under which section he did on or about the 30th of December last, report the "unclaimed" ashes then on hand to James Seton, Esq. the said auctioneer, whose advertisement, under the 172d section of said statute, will be found in the New-York Daily Advertiser, and the state paper.

And this deponent further testifies and says, that the 174th section of the Revised Statutes says:

"Every inspector shall annually on the 1st day of January, transmit, on oath, to the comptroller, a duplicate of every invoice or bill, of such articles as during the preceding year may have been delivered to any auction-



eer, and the amount received by him on the sales of any articles from any auctioneer."

And further by the 175th section :

"Every such report of any inspector of pot and pearl ashes shall be accompanied by an oath or affirmation taken and subscribed before some proper officer, that he has delivered to some auctioneer of the city and county (mentioning his name) an invoice, weigh rate, or bill of inspection of all unclaimed ashes, which had been in his hands one year, or more ; and that he had duly accounted with the owner or agent for all ashes delivered to his care, as the law directs ; and that he had not by himself or any person in his employ, made out any invoice, weigh rate, or bill of inspection of a later date than the time such ashes were duly inspected ; and that the same were emptied out of the cask or casks, and duly examined at the date of every such invoice, weigh note, or bill of inspection."

All which requisitions (duplicates, affidavits, &c.) were fully complied with by this deponent, and forwarded, under cover, (with a letter) to the comptroller by a gentleman, who he understood to be the hon. Mr. Dayton of the assembly, and to which he refers for particulars.

And this deponent further testifies and says, that on the 12th of January ult. he received from Wm. L. Marcy, Esq. the comptroller, a circular letter, dated "Albany, January 8, 1829," to which was subjoined a copy of

"An act respecting the inspection of pot and pearl ashes, and the duties of inspectors and auctioneers," passed November 14, 1828, in which letter he calls upon this deponent for a compliance with its requirements, and of the Revised Statutes alluded to in the 6th section of said act.

And this deponent further testifies and says, that on examination of the first four sections of the act of November 14th, 1828, he found their requirements substantially the same as the 171st, 172d, 173d, and 174th sections of the Revised Statutes (then and now in full force) excepting as to the extension of time for making returns to the auctioneer and comptroller, and that having complied with them, was, in fact, a compliance with the act of November last, and so I informed the comptroller in my letter dated January 13, 1829, forwarded by mail, and to which he refers for particulars.

And this deponent further testifies and says, that on reflection, he did not deem the return by a letter a sufficiently formal one, and particularly as it was publicly announced that Wm. L. Marcy, esq. had resigned his office as comptroller, and that his successor might not be as well acquainted with the facts in the case, in consequence of which an affidavit was made by this deponent on the 21st of January last, and forwarded under cover, addressed "To the Comptroller of the State," per Henry Yates, Esq. to which (with the letter accompanying it) this deponent now refers for particulars.

And this deponent further testifies and says, that the 185th section of the Revised Statutes, chapter 17, "general provisions," says :

"Every inspector acting under any article of this title, shall report annually to the legislature, on or before the 1st day of February in each year the quantity, and as near as may be, the quality and value of the produce, provisions, or merchandise inspected by him during the year ending the 1st day of January preceding the making of such report, together with the amount of fees and emoluments derived from his office, and shall also communicate in his report such information possessed by him as may tend to the improvement of the quality, or increase in the quantity of the article subject to his inspection."

And this deponent further testifies and says, that on the 24th of January last, he made his report to the legislature in strict conformity to the 185th section, and forwarded it on the same day by William James, Esq. (of the house of Wm. and John James, of this city) under cover, addressed to the

hon. speaker of the assembly, which letter, this deponent delivered to Mr. James on board the steamboat Commerce, and it should have reached Albany by the 26th or 27th ult. casualties excepted.

And this deponent further testifies and says, that he waited until the afternoon of Saturday the 31st ult. under the expectation of seeing his report to the legislature mentioned in the minutes of the assembly (as detailed in the state paper) but being disappointed, this deponent forwarded a duplicate copy of said report, under cover, to the "Hon. President of the senate," per mail, and which should have reached its destination by the 2d or 3d inst. And further this deponent saith not.

R. R. HENRY.

Sworn the 7th of February, A. D., 1829, before me,

JUDAH HAMMOND,

Justice of the Peace.

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[SUPPRESSED.]

*To his Excellency Governor Throop.*

NEW-YORK, December 31st, 1829.

Sir,

In a letter dated 29th October last, which I had occasion to write to President Jackson, and which I specially requested him to submit to Secretary Van Buren, (as "so many of his political friends are implicated in the affair,") I say,

"The course I shall take with the clerks will probably be a simple and summary one. To present a memorial and affidavit to both houses simultaneously stating substantially, that a report purporting to be from me in my official capacity, as inspector of Pot and Pearl ashes, as entered in the journals of the Senate, on the 4th February, 1829, page 153, I aver to be false and fraudulent, in fact a forgery, because I never made such a communication as the clerk has entered on their journals, and as proof positive of the fact, I refer to the very document he says he has copied, (and was referred to the committee on manufactures,) which will falsify the clerk's entry absolutely."

Also, that a report purporting to be from me, in my official capacity, as inspector of Pot and Pearl ashes, as entered in the journals of the Assembly on the 6th February, 1829, page 389, I aver to be false and fraudulent, in fact a forgery, because I never made such a communication as the clerk has entered in their journals, and as proof positive of the fact, I refer you to the very document he says he has copied, (and was referred to Messrs. Johnson, Edgerton and Dayton, a special committee,) which will falsify the clerk's entry absolutely."

Happily for the public, this "affair" is instantly settled by the clerk of the Senate producing the letter and report as entered in their journals: and the clerk of the Assembly, the report as entered in their journals, if they can I will be in an awkward predicament, indeed; but if they cannot the reverse will be the case. Such transactions every person should discountenance.

If the journals of the Senate and Assembly (153 and 389) are examined with the reports, it will be found the respective clerks have suppressed the letters, and that the clerk of the Assembly has loaned the letter (to the speaker) to the clerk of the Senate, which (or the copy,) with the address altered, he has put in their journals to make the duplicate ostensibly to have been the original; what should the "address" to an "official" letter falsified, be called "technically," for "morally" there can be no doubt?

What pitiful shifts and turns we have to make when we deviate from the "straight path," of which I will give you a few cases in point growing out of this crooked business.

New-York, January 24th, 1829.

Sir,

I enclose you my report as inspector of Pot and Pearl ashes, for the city of New-York, under the 185th section of the Revised Statute, chapter 17, article 12, passed December 3, 1827.

I am, very respectfully, sir, your obedient servant.

R. R. HENRY,

Inspector of Pot and Pearl ashes.

To the Honorable Speaker of the Assembly, Albany.

New-York, January 31st, 1829.

Sir,

The above is a copy of my letter to the speaker of the Assembly enclosing my report under the 185th section of the Revised Statute, which was delivered to Wm. James, Esq. (of the house of Wm. and John James, of this city,) on board the steam boat Commerce, on the 24th inst.

Not seeing it noticed in the minutes this week, I am to presume it has miscarried.

I enclose you the "duplicate," which please have presented to the house over which you preside. In great haste, sir,

Your most obedient servant.

R. R. HENRY,

Inspector of Pot and Pearl ashes.

To the Honorable the President of the Senate, Albany.

New-York, February 9th, 1829.

Sir,

I enclose you the memorial to which I alluded in my report of 24th ultimo, under the 185th section of the Revised Statute, chapter 17, which please have submitted to the house over which you preside.

I annex the memorial and schedule, containing matter which conclusively shows, that the honorable Truman Hart, (chairman of the joint committee,) never could have read the documents and the statutes relative to the inspection of ashes, particularly the Revised Statute, chapter 17, passed December 3, 1827, otherwise he could not conscientiously have reported—

"Inasmuch as the Revised Statutes are not understood as requiring inspectors to account for any unclaimed ashes previous to the first day of May last, when these statutes went into operation, and the former statutes were repealed, your committee have thought fit to provide for the case."

My object has been to save any committee to whom the memorial may be submitted, all trouble of research. I am, sir,

Your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl ashes.

To the Honorable Speaker of the Assembly, Albany.



Contradiction, 171, 172, 173, 174, 175, 176 sections of the Revised Statutes, chapter 17, from which Mr. Hart copied his 1st, 2d, 3d, and 4th sections—also, 12th section of the act of 25th February, 1813, and 17th section of act of 5th April, 1822!!!! Since the days of Col. Burr the legislature have not been taken more by surprise—see the memorial for details.

New-York, February 9th, 1829.

Sir,

In a letter which I had the honor of addressing you (as one of the joint Committee,) on the 8th November last, I remarked,

“As soon as Mr. Hart’s law has gone through all the legislative forms, I will probably make a communication that will excite some little surprise.”

I enclose you the memorial (which I alluded to in my report of 24th ult. under the 135th section,) open for your perusal, after which please have it delivered to the speaker. I am, very respectfully, sir,

Your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl ashes.

To the Honorable Mr. Johnson, of the Assembly, Albany.

NOTE.—I am happy to find from a letter in the Commercial Advertiser of this evening, that on Tuesday the 6th, my report was submitted to you and Messrs. Edgerton and Dayton.

I will give you the dates of letters to the joint committee, and ask you respectfully were they submitted to you, (with the enclosures,) as one of that committee, particularly the one in which I protest against Mr. Hart and Mr. McMichael acting or voting in this business, as they were not disinterested persons?

If you have not seen them, they should now be called for, as they contain important information, particularly the letter to Mr. Snow of the 11th November 1826, as to unclaimed ashes.

If my allegations (in whole or in part,) are true or false, they should be attended to, for if substantially untrue, I should be held up for public execration.

1828.

October	23,	Letter to the Joint Committee, per Joseph Cuyler, Esq.
“	29,	“ “ Wm. Durant, Esq.
“	31,	“ “ Benj. Woodward, Esq.
November	4,	“ “ Phillip S. Parker, Esq.
“	3,	“ “

Forwarded per mail on 9th February, 1829.

NEW-YORK, February 20th, 1829.

Dear Seton,

It is with regret I have to trouble you to inquire of Mr. Johnson (of the Assembly,) whether he has received from me a package dated 9th inst. enclosing a document of that date to the speaker, which was left open for his perusal.

If it has not been received, it may have been left in the post office, as the postage was not paid, I being informed that it was not necessary as on public business that charge (to members) was paid out of the contingent fund of the house, by the clerk.

Should it have been left there on the pretext of postage not being paid, will you have the goodness to take it out and deliver it personally to Mr. Johnson, and I will refund the amount to you.

Favor me, if you please, with an answer, as I wish to know to a certain-

ty if it has reached Mr. Johnson or the Speaker. Will you remember me to all with you, as I am in haste,  
Yours, &c.

(Signed)

R. R. HENRY.

Peter Seton Henry, Esq.

P. S. If you cannot see Mr. Johnson, the speaker or the clerk can say wh ther it has been received. It was mailed here to a certainty, and of course should have reached Albany.

Per Mail.

*To Mr. Robert R. Henry.*

Albany, February 27, 1829.

My dear uncle,

Absence from town, and not being able to see Mr. Johnson, has prevented my answering your letter sooner.

Mr. Johnson, whom I saw this morning, informed me he has not taken your letter out of the post office on account of postage. He also informed me that the state does not pay the postage of letters on public business.

With his permission, I shall take the letter out and hand it to him.

In haste, yours truly,

PETER SETON HENRY.

So that its delivery on the 27th of February last is reduced to a certainty, which is all I wished to know, as I then knew from what had been done with documents by the chairman of the special committee (Journals of the Senate, extra session, October 20, 1828, page 57.) by the chairman of the joint committee, (same session, October 30th, page 65) by the chairman of the special committee of the assembly (same session 70 and 89) by the comptrollers with the letters, reports, and affidavits, dated October 22d, and 23d, 1828; the 1st, 13th, and 21st of January, 1829, by the clerk of the senate with the report and letter of the 24th and 31st of January last, (journals of the senate, 153) by the clerk of the assembly with the report and letter of 24th of January last (journals of the assembly, 389) by the special committee of the 6th and 9th of February last (see journals 389 and 398) with the letters and documents to lieut. gov. Pitcher, of the 11th of November, 1828, (referred to in the suppressed part of my report) suppressed all, which previous suppressions I knew would compel Mr Johnson (and his associates in committee) to suppress the memorial also, otherwise all the documents alluded to would have to be forthcoming, which I determined they should be on the opening of the navigation, when I intended going personally to Albany to call them up, had not the apoplectic stroke on the Hon. Truman Hart forbade my moving in the business under his deplorable circumstances.

Nothing was heard of the memorial for thirty-eight days, until the following appeared in the Commercial Advertiser, for Tuesday, 7th of April last, from Mr. Johnson, whom Mr. Noah (in his paper of 15th of April last) says is Col. Stone's Albany correspondent. The memorial must have been smuggled through the house, as I did not see the presentation in the report of the proceedings of the 6th of April.

[From our Correspondent.]

Albany, Monday, April 6th.

# IN ASSEMBLY.

"A memorial from Robert R. Henry, Inspector of Pot and Pearl Ashes in New-York, was presented this morning by the hon. speaker. He remarked, that every citizen had a right to petition the legislature, but he did not know how far he was bound to present all communications enclosed to him. This one reflected on the conduct of an honourable member of the other body, and the house could decide what course was best to adopt in relation to it. After a few remarks Mr. Johnson moved, that the clerk communicate the said memorial to the hon. the senate, which was done!"

NOTE—*Reflected*, indeed, when the charges of corrupt conduct and the proofs are positive against the chairman of the joint committee, and the only way the rest of the committee can escape is by pleading "ignoramus."

I was of course all anxiety for the arrivals of the journals of the assembly and senate, to ascertain what kind of "journal entries" had been made by the respective clerks, and whether the letter to the "honourable speaker" had been "posted up" (as we mercantile men say) but as I find the "postings" to be pithy in the extreme, I will copy them for the information of the public, (who cannot obtain the journals) my own convenience, and as they are curiosities in themselves.

[960.]

Monday, April 6, 1829.

# IN ASSEMBLY.

The memorial of Robert R. Henry, Inspector of Pot and Pearl Ashes of the city of New-York, praying for certain amendments to the law passed November 14, 1828, entitled

"An act respecting the inspection of pot and pearl ashes, and the duties of inspectors and auctioneers," was read—thereupon ordered, that the clerk communicate the said memorial to the senate,"!!!!

[413.]

Tuesday, April 7, 1829.

# IN SENATE.

The memorial of Robert R. Henry, relative to so much of the Revised Statutes as relate to the inspection of pot and pearl ashes, was communicated from the assembly, and was referred to the committee on the judiciary"!!!!

Was there ever, sir, in the legislative annals of this (or any other) country such an extraordinary reference, of a memorial praying for "certain amendments" to a potash law being sent from the assembly to the senate instead of being referred to the appropriate "committee on manufactures" in both houses? Its being sent to the "committee on the judiciary" shows there is something rotten at the bottom of the "affair" on the very face of the transaction; and if the contents of the suppressed memorial (and report) are allowed to transpire, the public will stare with "saucer eyes."

As the journals, reports, memorials, and other documents cannot now be safely *yazood*, I feel myself at last on a footing of equality, at least with my powerful opponents, both in and out of the houses, who will be obliged to



come up to the "ring bolt," life, health, &c. granted me by a good providence; as the legislature are "bound in honour" to prevent "spurious reports" from being entered on their journals, and when the party complaining avers the documents entered cannot be produced, and that they are false and fraudulent entries, as the reports themselves will show.

It frequently happens that "partial evil" is productive of "universal good," as in my case, because the members on committees will see the necessity (from the fraud practised by Mr. Hart) of examining for themselves, and not pin their faith so absolutely (as the joint committee appears to have done) on their chairman. The houses will see the necessity of not adopting so rashly, reports as they did Mr. Johnson's deceptive one on the 9th of February last, by which the assembly refused to have entered on their journals the "emoluments" (exclusive of fees) of my office, amounting to \$354.50, imperatively required to be reported by the 185th section. Both houses will see the necessity of making a rule, requiring from each member of a committee a declaration in honour, whether he is, or is not interested in the question to be submitted. Also, that it be expressly stated on the journals whether the "communication" or "report," &c. has been read entire, or by its title only, and consequently whether it has been in whole or in part, entered on the journals.—See the frauds practised by the clerks on the members "not in the secret," and on the public, with my reports. And as the comptroller and attorney general do not seem disposed to enforce the 177th and 186th sections, I will, among other amendments, suggest remedies which no doubt will be adopted when the legislature comes to know that the losses of the treasury from their "neglect" of imperative duties, amount to at least \$200,000, which the state is justly and equitably entitled to in the shape of fines as a set-off against the proceeds of unclaimed property (ashes, beef, pork, sample flour," &c.) fraudulently used and converted to private account, within thirty consecutive years past, under "duplicate" bills issued to "convenient friends," (Van Wyck, Wright, Remsen, Conkling, and others who can be named) under the "discretionary power." See my report and affidavit of the 1st of January last, filed with the comptroller, on which governor Van Buren's message is predicated. Also, that part of my report, suppressed (by recommendation of Mr. Johnson) on the 9th of February last—the memorial (referred to the judiciary committee) the report on the journals of the assembly, October 20, 1828, but specially my letters to gov. Clinton, of March 4, 1825, of March 6th, Sept. 29, and Oct. 13, 1827, at which early dates I gave him instances of the "abuse of power," but I defeated my plans by naming names and identifying the interests of agents with the inspectors, which, as I tell Governor Pitcher on the 11th November, 1828, with the private mark business, brought a "hornet's nest about my ears."

"Oh that my adversary would write a book," said one of old; but I say, Oh that my adversaries would write "circulars," which "flatly contradict" each other, and put them on the files of the comptroller's office—would make reports for the state paper which the journals of the senate will show to be designedly false and fraudulent if collated; but particularly that they would make "official" reports relative to "provisions, produce, and merchandise," and the "fees" and "emoluments," and solemnly aver, that they were faithfully made; which reports should be "recorded," at large by the clerks of the journals of the senate and assembly where they cannot be *yazood*, consequently can be safely referred to (verbally and in writing) as direct or collateral proofs to show legally or equitably the truth of my allegations, and that that "chapter of blunders" commonly called the Revised Statutes, chapter 17, should be amended so as to prevent such "incorrect, improper, and indiscreet" reports, &c. in future: for example—

If you turn to Mr. Inspector Snow's report (journals of the assembly, 186 and 314) your excellency will find he says expressly:

"Amount of emoluments or fees received during the year \$6544,86, from which deduct store rents, clerk hire, foremen's wages, coopers, labourers', with numerous contingent charges."

And he then assures the legislature (in his subsequent report, 314) that he had "faithfully accounted for "the amount of fees and emolument derived from his office;" but to show that he and others have not "faithfully" accounted, take the following calculations predicated on our respective reports as they appear on the journals.

Reported by Snow,	13452 casks,	\$6544,86	average .483	page 186
" Dumont,	4998 "	2241,33	" .4482	" 340
" Henry,	1766 "	805,06	" .4558	" 389

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Reported,	20,216 casks.	\$9591,25	average, .465	general.
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Consequently, that not any "emolument," ("independently of fees.") is included by either of us in the above sums, which it was essential to make apparent to show the deceptive nature of the report of Messrs. Snow and Dumont, (and Mr. McCarthy,) rendering the suppression of my "emoluments" on the journals of the Assembly (entered through mistake on the journals of the Senate,) indispensably necessary to shield them from exposure.

#### *Estimate for Mr. Snow.*

Inspected 13,452 casks.	Average, .483	-	-	\$6544,86
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From which he says must be deducted the "store rents, clerk's hire, foreman's wages, coopers, labourers, and numerous contingent charges."

Store rents,	-	-	-	at least	\$3,000
John Brower, clerk,	-	-	-	-	500
Wright, deputy,	-	-	-	-	500
Isaac Heddy, foreman, \$35 per month,	-	-	-	-	420
Wm. Chew, cooper, \$30	"	-	-	-	360
Cont. labour on 13452 casks at least 10 cents per cask,	-	-	-	-	1345,20
					\$6125,20

Net income, if his report is true,	-	-	-	\$419,66
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Which, added to the following items he has "Remembered to forget" to report to the legislature under the 185th section, shows his real income.

Storage on 6689 casks, (less than half,) 6s.	\$5016,20
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"Emoluments" derived from extra cooperage, condemned casks, hoops, marking and numbering, profit on casks, (putting the sales of "unclaimed" ashes under "duplicate" bills out of the question,) say on 13452 casks, 5 cents, my average, 672,60

Scrapings. Mr. Snow has reported 8306 casks pot ashes as having been inspected, which gave 3 per cent. of scrapings, say 1 cask in 33, consequently he has not accounted for 1-33d part of pot ashes inspected, say 250 casks, at 46 cents, which gave fees,

115

\$5803,80

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Net income including "emoluments" omitted,	\$6223,46
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*Estimate for Mr. Dumont.*

Inspected 4998 casks. Average 4482	-	-	\$2241,35
From which he says "clerk's hire, labour and "store rent"			
must be deducted.			
Store rent,	-	-	at least, \$1,100
C. V. V. Leonard, clerk,	-	-	500
Wm. Cantine, foreman, \$30 per month,			360
cooper. 30	-	-	360
Cont. labour on 4998 casks, a 10 cents,			499,80
			<hr/> \$2819,80
Loss (on the business) if his report is true,	-	-	\$577,47
Which taken from the following items, which he has			
suppressed in his report :			
Storage on 1-3 his quantity, 1666 casks, a 6s.			\$1250
"Emoluments" on the whole, 4998 " a 5 cts.			250
Scrapings on 3698 casks pots. 112 " a 46 cts.			59,82
			<hr/> 1559,82
Net income, including "emoluments" omitted,			<hr/> \$982,35

*Estimate for Mr. Henry.*

1766 casks inspected, (per journals of Assembly, 389) ave-			
rage .4558,	-	-	\$805,06
		LESS.	
Store rent, 4 months,	a	\$1100	\$366,66
C. V. V. Leonard, 4 months, clerk,		500	166,66
James Powers, 4 " cooper,		360	120
Cont. labour on 1766 casks,		10 cts.	176,60
			<hr/> 829,92
Loss (on the business,) if my report as entered by Mr. Sager			
on the journals of the Assembly, 389, is true,			24,86
Which abstracted from the "emoluments derived from			
his office," suppressed in the journals of the Assem-			
bly, 389, but entered in the journals of the Senate,			
153, viz :			
Storage, (one quarter,) - -		\$275	
"Emoluments," for extra cooperage, &c.		79,50	
			<hr/> 354,50
Net income, including "emoluments," if my report as enter-			
ed in the journals of the Senate, 153, is true,			<hr/> \$329,64

I solemnly aver, sir, the reports to both houses, (excepting as to letters to the President and Speaker.) are word for word the same, and are so much alike one might be taken for the other.—Why then the discrepancies? Why should I be made to appear in the journals (to cover Messrs. Snow, Dumont and McCarthy. &c. from exposure by the by) to have been so base and depraved as to report differently the state of my inspection business? I appeal to the reports to show they are truly reported, and that there is no variation in them, although the letters are different, from causes which will appear on examination, which I must pray for, as char-



acter is now my only patrimony, which I cannot sacrifice to save that of others, who having money, can do without it, consequently with whom a "little character" will go a great way.

I was regretting I had no other course to pursue to obtain "summary" redress, than by application to the Houses, to have the "journal entries," rectified, which would expose both the clerks; but as to the honorable Mr. Hart and Mr. Johnson, who had lead them astray from the 'straight path,' I had no commiseration for them, neither for the Comptroller and others who would be incidentally exposed. When I was asked;

"Why regret?" The clerks have not scrupled to record you as a villain, which you are, if the reports are truly entered by them. Because to the Senate you have "officially" stated your income on 1766 casks of ashes (fees and emoluments including storage) to have been \$1159 56, and to the Assembly at \$805 06; that I asked for nothing but to have the "journal entries" rectified, and as to consequences, I had no more to do with them than a juror had with those which might result from his verdict.

If I was to submit the reports and estimates of Mr. Inspector Snow to his clerk, John Brower, Esq. and the report and estimate of Mr. Inspector Dumont to Cornelius V. V. Leonard, Esq. his clerk, (formerly mine) who drew the report, I know I would be told by Mr. Leonard, particularly, that on the 11th November 1826, (when he copied my letter to Mr. Snow relative to the largess of 100 casks of "unclaimed" ashes bestowed on Trotter & Douglass) and on 30th April 1828, when he copied my letter to Hugh Maxwell, Esq. and on many intermediate occasions, he has told me substantially, that a law having been abrogated or having expired by limitation, &c. all accountability (for acts done or suffered to be done however illegal) of the inspector, was at an end; consequently that the act of 25th February 1813 having been repealed by the act of 5th April 1822, Messrs. Snow and Cooper were not responsible to the state for the 100 casks of "unclaimed" ashes bestowed by them (I aver illegally and fraudulently) to hold till the original bill was presented only by the owners, (who, by the by, have never appeared to claim or demand them) neither for the "unclaimed" ashes abstracted, alias cribbed, from the casks of absentees, as there was no mention of "scrapings or crustings" in the law of 1813, although there was in that of 1822; and further, that Messrs. Snow, Cooper, and Bogart's commissions having been renewed, (again and again) were, in fact, acts of amnesty for all past transactions, even under the act of 1822, (provided nothing was done on that day before the law expired) which Mr. L. said he would not notice in making out any reports for Mr. Dumont, under the Revised Statute, Chapter 17, having the "sad mistakes" in the "76th and 177th" sections, &c. in view, the latter of which allowed the inspector to commute for the "unclaimed" property for the petty sum of \$250 until, to their utter astonishment, the consideration money was raised (by Mr. Butler) to \$2500 and imprisonment. See my Letter and Affidavit of 21st January last to Comptroller Wright, who appears to be determined to defeat my views for the public good.

I have no doubt that Messrs. Brower and Leonard, and others, would also now tell me, that since the above reports were made, Messrs. Snow, Dumont, Cooper, and Bogart's commissions have been renewed, which precludes any inquiry relative to their reports made previously; but should any malpractices have been committed since the renewal of the commissions in March last, that would alter the case entirely; and should I produce the following written evidences of them, (which show I can oral proofs) I would then be told, an inspector general will be nominated to the Senate (immediately on the meeting of the legislature) by your excellency, which would supersede all our commissions, and be a quietus to every thing.

If the executive and legislative authorities will even indirectly sanction

such palpable frauds and evasions of law as are detailed in the following letters, when officially made known to them, I must submit of course; as it will show there is some truth in what the Hon. Mr. Leigh and the Hon. Mr. Randolph have said (see New-York Daily Advertiser of 14th November last) in the Virginia convention.

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[No. 156.]

25th September, 1829.

Dear Sir,

I think the following, in some measure, accounts for the zeal of some of Mr. Snow's friends, for which reason I communicate it.

I was yesterday informed, by a man of undoubted veracity, that it is Mr. Snow's practice, when inspecting small parcels of ashes, to collect the scrapings as in other cases, but not to account for them; and that he disposes of them in rectifying the errors of his clerks, and restoring the value of such as he has legally accounted for, that remain with him until it is damaged by mixing some of his "stock" with it, and that on other occasions he allows men in his employ to sell it, and divide the prize amongst them.

If it was possible that Mr. Snow was ignorant that he is bound by law and oath to have such scrapings advertised once a year, and sold, and the proceeds paid into the state treasury, I would recommend to him in future to return such scrapings to the barrels from whence they came, for honesty's sake, that the real owners may not be defrauded, and he may escape the just censure of all who are not immediately benefited by (to say the least) such unlawful proceedings.

Yours respectfully,

[Signed]

R. R. Henry, Esq.

N. CONKLING.

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[No. 157.]

New-York, 26th September, 1829.

Dear Sir,

I this morning went to the office of Messrs. Hart, Herrick, & Co. with a Mr. Thayer, the owner of 15 barrels of ashes, the bill and copy of which I delivered them yesterday, accompanied by a bill for the scrapings.

One of the clerks asked Mr. Thayer if those were not old ashes, and on his receiving for answer they were made this summer, he replied he could not see how they yielded so much scrapings.

I then told him that ashes coming to our office contained no more scrapings than those sent to other places for inspection, but that we always accounted for what there was. He then informed me, in an under tone, that he did not speak on that account, but it was Mr. Cooper's practice with them not to account for separate parcels of scrapings, but to let them accumulate until they amounted to a full barrel, or two or three barrels, and then give them a bill for the whole. Comment is needless.

Yours respectfully,

[Signed]

R. R. Henry, Esq.

N. CONKLING.

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As to the inspectors, I am aware that Hart's 5th section (unless repealed on the principle of its being fraudulently obtained) legalizes all the illegal

and fraudulent sales and conversions up to its date, the 14th November 1828, if not to the 14th May 1829, the six months given them by the act to pay the proceeds of "unclaimed" ashes, (which the joint committee say they have undoubtedly in possession to a large amount) not a cent of which is now in the treasury. I am also aware that by their mere averment that they have paid over such proceeds to the owners, without naming them, is *prima facie* evidence that they have done so, till the contrary is shown in a court of law or equity. I am also aware, that by the comptroller accepting returns under the 4th section of Hart's law, and illegally dispensing with those required by the 6th section, and declining to report inspectors of "provisions, produce, or merchandise," who are "defaulters," under the 174th, 175th, or 176th sections, they are released from the penalties under the 6th and 11th sections of Hart's act, (as amended by the Honourable Benjamin F. Butler, see my letter of 11th September, 1828, to him) and the 177th section of the Revised Statute. I am also aware, that by the attorney general declining to prosecute not only those who are partially but also totally delinquent under the 185th section, (agreeably to the 186th section) that they are also virtually released from that penalty, and that by the appointment of an inspector general, we will one and all be released from every responsibility, excepting when original bills or receipts can be produced. Yet I know that all these illegal escapes (hair-breadth ones) may all be prevented merely by your excellency declining to nominate to the senate an inspector general, until the legislature are made acquainted with the contents of this official communication, the charges in which I stand ready to substantiate against inspectors and all others (directly or indirectly) implicated with them both in and out of the houses, if either of them will venture to call for a legislative inquiry, but they dare not do so.

A person in an official station may act most illegally, if not corruptly, and yet (directly) not touch a cent of money. For examples:

A debtor fails, and gets his discharge: after a lapse of years, he finds a former creditor in a situation to give or obtain for him an office of "honour, trust, or profit:" application is made for it, and a "broad hint" is given, that if he would renew the obligation to pay eventually out of the profits (the whole or part) of the "old debt," it could be obtained for him, which overture is of course acceded to, being so evidently for his advantage. Although not a cent of cash is to be immediately paid, (only out of the profits of an office to be obtained) and although many will say that the creditor had a right to avail himself of this fortuitous circumstance to obtain his debt, yet I contend it would be as illegal a transaction (to say the least) as Inspector Bogart's sale of the reversion of his office to Roderick Sedgwick, Esq. in August 1824, for \$500 per annum, (for his "working tools," the nominal consideration) on the discovery of which, Mr. Bogart had a "broad hint" given him, that out of respect for his father and family his resignation would be accepted, which was accordingly sent in, and I was appointed (in vacation) to fill his place. Your excellency, no doubt, will find the documents relating to "this affair" on the executive files, and to "another affair" in an official letter to the comptroller of 18th June last.

Again. Major Samuel Cooper receives information that a quantity of ashes were shipped or shipping at or near Hector-street wharf, contrary to the 10th section of the act of 5th April 1822, which it was his duty to have seized, instead of which he sends a written prohibition, which was served on the mate of the vessel after dark, by Mr. John H. Remsen, then in the Major's employ, the object of which was to compel the owner or agent to seek a personal interview, which took place the ensuing day, when \$50 was offered (the probable amount of the fees of inspection, if made) for the privilege to complete the shipment, which the Major refused to accept; but a "broad hint" was given to the agent, that if he would patronize him by giving a preference to his inspection-bills, he might go on, which was acceded to readily, as the agent found the inspector would at all times be



willing to convert the old ashes into fresh ashes, by a legerdemain operation, minutely detailed in my circular letter of 19th March 1828, a copy of which your excellency will find in the hands of the comptroller or the chairman of the joint committee, which contains "secrets worth knowing."

Again. Messrs. Snow, Bogart, and Cooper, see on a cask a red D, which is the "sign" the ashes belong to "country innocents," have not been inspected in Albany, and that the scrapings are not to be noted on the copies, but set aside for the benefit of whom it may concern; and it is said when the D was black, the "sign" was that the absentees' "eye teeth" were cut, and the scrapings must be noted on the copies; that when "hieroglyphic or allusive private marks or characters" appeared on the casks, the "sign" was, the ashes have been inspected in Albany, (although not branded according to law) which practice is continued down to the moment I pen this paragraph, contrary to law, which I stand ready to prove, and for sinister purposes. See my communications to Governors Clinton and Pitcher, the Comptrollers, Joint and Special Committees: the documents in the hands of Messrs. McCall, Norton, Broughton, Granger, Maynard, Hayden, Hazelstone; but especially the letters of 4th and 8th November, 1828, to the Hon. Mr. Johnson—letters in the hands of the Comptroller, dated 6th March 1827 and 18th June 1829—letters to the Hon. John C. Spencer and Benjamin F. Butler of 11th September 1828, &c.

Again. Mr. Inspector Snow is applied to, to cancel his "old bills" and issue "new ones," altering the brands to suit. Consideration, not money, only exclusive patronage. The fees allowed Major Cooper and the junior inspectors, (Remsen and Dumont) for similar services, were generally 12½ cts. saving to the owner or agent 36 cents per cask, besides converting his old ashes into new ashes. See my circular of 19th March 1828, and my letter to Hugh Maxwell, Esq. of 30th April 1828, (in the hands of the joint committee) who declined acting, (on 31st May 1828) on the principle that "cheating" (in certain cases) had been ruled "not to be fraudulent." See his letters to Henry Eckford, Esq. in Noah's Enquirer of November 1827.

Again. The comptroller permits Mr. Inspector Dumont to file his returns under my 175th section with the clerk of the Assembly instead of in his office, to oblige Mr. Dumont, who wishes to have something on the journals of 1829, page 340, &c. to counteract my "Mr. Dumont do. do. do." to Mr. Snow. See journals of the Assembly, extra session, 1828, page 63, also to oblige the inspector's uncle, collector Swartwout, and to give Mr. Dumont a "factitious" character as an "inspector," and induce your excellency (some days hence) to nominate him to the Senate as Inspector General. No money enters into the transaction, but that it is not an "evasion, but a palpable violation" of the 175th section, will be apparent on its examination, which, if sanctioned by the legislature, renders the inspection law a "dead letter."

Again. The attorney general has a duty imperatively enjoined on him by the 186th section, to prosecute all "defaulters" under the 185th section, (who are totally or partially so,) which he has totally "neglected" to oblige Messrs. Lowerie and other delinquents mentioned in the list which will follow. Not a cent of money enters into "this affair," yet it is a most flagrant violation of duty.

The following are the charges I make and stand ready to support, if any of the persons, directly or indirectly implicated, will venture the hazard of calling for an inquiry, which they will not do, as they stand "self convicted" by the documents alluded to in the charges, putting the oral testimony out of the question, which will be still more conclusive.

1st. The comptroller as such, and as trustee, receives from me officially important communications, (they will be admitted to be such when examined,) dated 22d and 23d October, 1828, and 1st, 13th and 21st January

1829, which should have been laid before the legislature, (as governor Van Buren's message relative to "discretionary power" was predicated on one or more of them,) but the Comptroller finding if he did, that the honorable Truman Hart would be forthwith expelled, and his associates in the joint committee would be subjected to a vote of censure, he withheld them, in consequence of which the 5th section of Hart's law of 14th November, 1828, stands unrepealed with all the other imperfections in the laws, particularly in the 64th, 76th, 171st, 174th and 176th sections of the Revised Statutes, chapter 17.

2d. The Comptroller, by withholding the above official documents, (also alluded to in the suppressed part of my report of 24th January last) enabled the honorable Mr. Johnson to hoodwink the members of the Assembly ("not in the secret") on the 9th February, 1829, and induced them to reject the "emoluments derived from his office," (see journals 389 and 398,) although imperatively required to be reported "independent of the fees."

3d. The Comptroller, by withholding the above official documents, (also alluded to in my memorial,) enabled Mr. Johnson and the clerks to hoodwink the members of the Senate and Assembly "not in the secret," on the 6th and 7th April last. See journals 960 and 413, also Mr. Johnson's letter in Colonel Stone's Commercial of 7th April last, which imprudent and impolitic letter discloses the deceptive nature of said "journal entries."

4th. The Comptroller has a duty most imperatively enjoined on him, (he "shall," not may report,) by the 177th section, to report all inspectors of "provisions, produce and merchandise," who are defaulters, under my 174th, 175th or 176th sections, (Hart's 6th and 11th sections amended by Butler) to district attorneys, which he has neglected to do; but in lieu of that duty he has issued a circular to delinquents of the 11th July last, maugre the "circular" of his predecessor, of 8th January last, which is a "flat contradiction" to the hypothesis assumed for issuing his. Consequences.

If there are in the state one hundred "defaulters," the loss to the treasury in the shape of fines, is 250,000 dollars, added to which on the first January next, the inspectors who have escaped will be again "defaulters" rendering the inspection law by this assumption of "discretionary" power, (no where granted to him even by construction,) a "dead letter" practically.

5th. The Comptroller has winked or connived at the filing my oath No. 175, with the clerk of the Assembly, under the 185th section, (instead of his office,) by Mr. Inspector Dumont (a nephew of Collector Swartwout,) by which finesse or evasion of the law, the oath is extra judicial; and to show it is a designed evasion, Mr. Dumont dare not venture to file the same oath, word for word, in the Comptroller's office, under my 175th section, as it would then be judicial or agreeable to the "general provisions" of the 17th chapter of the Revised Statutes.

6th. The attorney general has an imperative duty imposed on him by the 186th section, to prosecute all inspectors of "provisions, produce and merchandise" who are "delinquents," under the 185th section; although the journals of the Senate and Assembly show him that every inspector in the state, save one, are totally or partially "defaulters," (designedly so, as they knew they had only 200 dollars to pay for "neglect,") yet he has wilfully avoided the performance of this important duty, maugre the 186th section, and my official letter and affidavit of 7th February last.

Consequences.—If there are one hundred "defaulters" throughout the state the pecuniary loss to the treasury is \$20,000, which forfeitures not being exacted, no attention of course will be paid to the 185th section in future, further than suits the interest or convenience of the inspector. I

specially refer to the suppressed parts of my report of 24th January last, for important information on this very subject; also the memorial which was supplementary to it. See also, the letter and affidavit to the attorney general, of 7th February last, for further details.

7th. The clerk of the senate has put into his hands an "official" report from me as inspector of pot and pearl ashes, enclosed in a letter dated 31st January, 1829, addressed to the president of the senate (alluding to the suppression of the original in the assembly) which letter with five half sheets containing the most important matter in the report, he suppresses, and substitutes in lieu of the letter the one written to the speaker of the assembly with its "address altered," so as to make the "duplicate" ostensibly appear to be the "original". Consideration, not money, but to save the Hon. Truman Hart from expulsion (whose vote as in the case of Gen. Ward, the "Lobby" members could not dispense with) and Messrs. Enos Woodward and others, from a "vote of censure" for having sanctioned the report and bill presented to the senate by Mr. Hart as chairman (on 30th October, 1828, journals of extra session 65) of the joint committee.

8th. The clerk of the assembly has put into his hands an "official" report from me as inspector of pot and pearl ashes inclosed in a letter to the speaker, dated January 24, 1829. The clerk suppressed the letter (which it appears he loans to have put in the journals of the senate) alters the caption of the report, and further suppresses five half sheets, containing the most important parts of the report, and he enters the residue on the journals as the entire report—see journals 389. Consideration, not money, but to save the Hon. Truman Hart from expulsion (oblige the "Lobby" members) and save the Hon. Messrs. Johnson, Hart, Belding Wallis, and Fenton, (also others) from a "vote of censure" for having sanctioned the report and bill above mentioned, and Messrs. Johnson, Hart, and Wallis a "special committee," for their report of November 11, 1828, page 89, in which they say "that the committee have examined the bill, prepared certain amendments, with which they see no reason why the same should not be passed into a law."

No wonder, that after making the above report, that Messrs. Johnson, Hart, and Wallis, were alarmed on reading my report of 24th January last, and joined their influence with others to induce the clerk of the assembly to make the false and fraudulent entry on the journals p. 389, which your excellency will perceive rendered the subsequent ones of 9th of February, 398, and of the 6th April, 960, indispensably necessary for his own and other's preservation; but mark the finger of Providence in all this. The very attempts they have one and all been making to suppress reports, memorials, letters, &c. since 4th March, 1825, will have a tendency to bring all forward, for it is impossible that the next legislature can or will, directly or indirectly, sanction acts, which "morally," if not "technically," amount to forgeries. Public and private curiosity is and will be excited to see these "much dreaded" reports, memorials, &c. and the "sovereign people" must be gratified.

In the 6th charge, (against the attorney general) I say "That every inspector in the state (save one) are totally or partially defaulters;" to prove which important assertion I appeal to the journals from which I have taken the following list (adding those "totally delinquent" as far as my knowledge extends, but unquestionably there are many others not mentioned,) from which your excellency will see the powerful interests brought to bear on the comptroller and attorney general, to prevent their doing their duty under the 177th and 186th sections, until an inspector general is appointed, when as ex-inspectors we will be freed from responsibilities.



## JOURNALS OF THE ASSEMBLY.

Albany	Flour and Meal	Jasper Keeler	343	No emolument.
New-York	Domest. Spirits	A. Dally	306	"
"	Flaxseed	J. K. Townsend	124	"
Albany	Domest. Spirits	S. W. Johnson	922	"
Niagara	Beef and Pork,	Sys. Russell	927	"
Westchester	"	Henry Strange	103	"
Greene	"	N. Wilson	412	"
Monroe	"	John Brace	317	"
Oneida	"	Wm. Barber	96	"
Rensselaer	"	G. Smith	404	"
"	"	E. L. Broughton	411	"
"	"	Horace Turner	417	"
Columbia	"	J. Rogers	384	"
Madison	"	J. Ingersoll	726	"
Onondaga	"	J. Sloan, jun.	431	"
Westchester	"	N. Brown, jr.	667	"
New-York	"	A. W. Youle	107	"
"	"	James Lowerie		defaulter
"	"	Philo Lewis		"
"	"	Henry Howard		"
"	"	Wilson		"
"	"	Jacob Shumway		"
"	Leather	Nich's Anthony	635	No emol't
"	"	Leek & Co.	389	"
Albany	Hops	E. A. Le Breton	164	"
New-York	"	"		defaulter
Erie	Leather	John Dobson	1241	No emolument.
Kings	Lumber	Erastus Smith	314	"
"	"	Benj. Meeker	315	"
Monroe	"	Abner Hubbard	316	"
Rensselaer,	"	Charles Leman	317	"
"	"	Ed. Turner	343	"
"	"	Elias Disbrow	367	"
"	"	Nich's. Challis	380	"
New-York	"	Abm. A. Slover	163	"
"	"	Jacob Lockman	164	"
"	"	Peter Coney	187	"
"	Fish	Herman Scofield		Defaulter.
"	"	Thomas Moore		"
"	Fish & L. O.	Wm. D. Morgan		"
Niagara	S. & Heading	Syl's. Russell	727	No emolu'ts.
New-York	Pot & Pearl A.	Robt. Snow	186 314	"
"	"	Wm. Dumont	340	"
"	"	Sam'l. Cooper		Defaulter
"	"	John H. Remsen		"
"	"	R. R. Henry	389, 398, 960	} No emolum't on the Journals.
Albany	"	John Stoddart,	411	
Hudson	"			No emoluments.
Troy	"			defaulter.
Utica	"			"
Niagara	"			"

## JOURNALS OF THE SENATE.

New-York	Flour & Meal	Rich'd. M'Carthy	93	No emolum't.
Troy	"			Defaulter
Rensselaer	Beef and Pork,	D. D. Forest, jun.	422	No emo't.
New-York,	Lumber,	James McNeilson,	433	No emolum't.
"	Pot & P. A.	R. R. Henry	153, 413	repor. his emol'nts.

"From which officially appears," that the "poor inspector" is the only one in the state of New-York who has reported the "emoluments derived from his office," although imperatively required by the 185th section for wise purposes to be reported "independently" of (and separate) from the fees, as the section says "Every inspector acting under any article of this title shall report annually to the legislature, and on or before the 1st day of February in each year the quantity, and as near as may be, the quality and value of the produce, provisions, or merchandise inspected during the year ending the first day of January next preceding the making of such report, together with the amount of fees and emoluments derived from his office, and shall also communicate in his report such information possessed by him as may tend to the improvement of the quality or increase in the quantity of the articles subject to his inspection."

Section 186. "Every inspector who shall not comply with the provisions of the preceding section, shall forfeit for each offence the sum of two hundred dollars, to be recovered by the attorney general to the use of the people of this state."

Inspector of flour and meal.—He reports to the Senate on 23d January, last page, 93, 634,363 barrels and hogsheads of (wheat, rye, buckwheat, and corn) "flour and meal," which, at the moderate average of  $2\frac{1}{2}$  ounces per cask, gave of sample "flour and meal," 99,119 lbs. weight, equal to 506 casks, not an ounce of which is reported as "emolument" by the said inspector.

In speaking with a broker on the subject, he admitted the "sample flour and meal" had seldom been demanded by the owner or agent from the inspector, but that he gives it away. To whom? No doubt to his men, and perhaps in part payment of wages, or what is tantamount to it, obtains their services at reduced rates, the "flour and meal" being perquisite to their office.

It equitably, I contend, belongs to neither the owner, agent or inspector, but to the purchaser, because he pays for 196 lbs. but gets only 195 lbs. 13 1 2 oz.; consequently the "sample flour and meal" is justly his.

Take the value of the 506 casks at \$4, and the "emolument" to somebody is \$2024. As 700,000 casks have no doubt been inspected the year ending 1st January 1829, (in New-York, Albany, and Troy) at least 1,000,000 barrels may be expected this year, which at an average of  $2\frac{1}{2}$  ozs., will give 156,250 lbs. weight, equal to 800 casks at \$4, equal \$3200, a handsome "emolument" this, even if we estimate half the amount, and nobody the wiser that Mr. Somebody had perquisites to the amount of 16 $\frac{2}{3}$  per cent. on his "legal" fees. Can any thing show more conclusively the wisdom of the 185th section requiring the "emoluments" to be reported "independently of fees," and the reason mine was suppressed in the Assembly?

I have been threatened with personal consequences in case I interfered with the "emoluments" derived from the "offs and ends" of beef, pork, sample flour, &c.; but I have jocosely said they unfortunately had got hold of the "wrong sow by the ear;" and I have ironically remarked, that as I

am neither to have "art or part" hereafter in the inspection of either "provisions, produce, or merchandise," I must again become a dealer in some shape; and as I was repeatedly cheated when a "country merchant," I would protect myself and other absentees at home and abroad, by amendments, now that I personally know the modes and manner we had been fraudulently deprived of 1-33 part of all the potashes we had sent to this market, by the finesse of omitting the scrapings on the copies, a practice still in existence, I aver, and stand ready to prove.

For the glass house in Ulster county only, one of the concern, Mr. Jared Peck, says he has purchased unmerchantable or damaged ashes (scrapings, crustings, &c.) to average 150 casks per annum, for 15 years past, and principally directly from inspectors and their men; and that his total purchases from inspectors of beef, pork, and ashes, could not have been less than \$50,000!!! What "cribbing" from casks of absentees!!!!

Let the inspector be required to "give" the "sample flour and meal" over to the "overseers of the poor," or have it sold at stated periods, and the proceeds deposited as the legislature may direct; but nothing should induce them to permit any of us inspectors of "provisions, produce, or merchandise," on any pretext whatsoever, (or any person in or out of an office, but an auctioneer at public sale) to sell the least particle of the article we inspect; if they do, the comptroller, as trustee, will have a "Flemish account" of the "unclaimed property;" for "give us an inch," and we "will take an ell;" and if any evidence is required of the postulate, I refer to the suppressed parts of my report of 24th January last, and the memorial of 9th February, (referred by the senate to the *judiciary* committee, on the 7th April last, by whom it was suppressed) but especially to the letters and affidavits suppressed by the comptrollers, in which the subject is discussed at large relative to the operation of the "discretionary power" assumed by use of issuing "duplicate" bills to clerks, brokers, and other "convenient friends," on their mere averment they were "owners;" the practical results of which most dangerous power is so fully made apparent in Mr. Nathaniel Conkling's letters of September last, as to render it unnecessary for me to give more cases than will be found in the suppressed documents, which will convince the most sceptical that the 64th, 76th, 171st, 174th, 175th, 176th sections, &c. require amendment.

But if there should be any doubts, what follows will show what a "worthless thing" the Revised Statute, Chapter 17, is practically, which I cannot show more strikingly, as to the 76th section, than by giving the 14th section of the act of 5th April 1822, and on the margin the 85th section, recommended by the revisers as a substitute, which was adopted verbatim by the legislature, showing experimentally the danger of mere theorists' (although eminent lawyers) meddling with matters which they do not understand, without "advice" from practical men; for, strange to tell, the Hon. John Duer assured me, on 23d March last, that he thought the words, "or any crustings or scrapings of the same, or shall knowingly suffer any person or persons in his employ to do the same," to be surplusage, the inspector being prohibited from buying or selling directly or indirectly, being a sufficient guarantee against abuse. But Mr. Conkling's letters show the reverse.

Section 14. "And be it further enacted, That if any inspector, during his continuance in office, shall directly or indirectly, by himself or any other person, buy or sell any pot or pearl ashes, or any crustings or scrapings of the same, or shall knowingly suffer any person or persons in his employ to do the same, he shall forfeit for each offence a sum not exceeding five hundred dollars, at the discretion of the court having cognizance of the same, one moiety thereof to the use of the person or persons who shall prosecute for the same, and the other moiety to the use of the people of this state; which shall be paid to the treasurer thereof when collected, and may be



recovered in an action of debt in any court of competent jurisdiction, together with costs of suit; and such inspector, on conviction thereof, shall be disqualified from holding any office of honour or profit in this state."

*Revisors' 85th, and Legislative 76th Section.*—"Every inspector who, during his continuance in office, shall directly or indirectly buy or sell any pot or pearl ashes, shall be guilty of a misdemeanor, punishable on conviction by a fine not exceeding five hundred dollars; and every inspector so convicted shall be for ever thereafter incapable of holding an office of honour or profit in this state."

It is scarcely to be credited that the Hon. James McCall should have given his sanction to the 76th section, after having written me what follows and holding in his hands my answer. The acceptance of Mr. Hart's report of 30th October, and Mr. Johnson's of 11th November 1828; the report of Mr. Johnson of 9th February 1829, and the transactions on the 4th and 6th February, and on 6th and 7th April last, show conclusively what two leading men, with the aid of clerks, &c. can do in the Houses and on committees, owing to the lamentable want of attention on the part of members when their own immediate interests are not directly affected in the question at issue.

Is it not "passing strange," sir, that no one, for instance, (in the Houses or joint or special committees) should have recollected on 30th October 1828, that Hart's 1st, 2d, 3d, and 4th sections were substantially copies of the 171st, 172d, 173d, and 174th sections of the Revised Statute, then in full operation, and consequently that there was no necessity for re-enacting them? Good, however, will ultimately result from these legislative "neglects" of duty, as well as from the "neglects" of duty on the part of the comptrollers, attorney general, clerks, &c. showing that the sooner careless and corrupt agents are discharged the better for the principals, (either in public or private life) as a careless agent may do as much injury as a corrupt one, and are almost equally to be dreaded when high trusts are confided to them, although the intention might be pure.

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*Extract from Mr. McCall's Letter.*

ALBANY, OCTOBER 10, 1827.

"Since receiving the several communications from you, last winter, on the subject of the inspection of ashes, I have had much time for reflection, and have made many inquiries of country merchants and manufacturers, and in almost every instance your statements in relation to scrapings and pickings have been confirmed. The laws are now under revision, and I am determined to make an attempt to amend the inspection law, so as to enforce the observance of it if possible. Will you be so good as to enclose to me such amendments as may have suggested themselves to you as soon as convenient, and no doubt you will render a further benefit to the public."

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*Extracts from my reply.*

NEW-YORK, 16th OCTOBER, 1827.

I wish, sir, on behalf of your constituents, (many of whom have unknowingly been sufferers) to draw your attention to the clause which I wish to have added to the inspection law, calling upon me and the other inspectors

(by a day to be fixed) to make a return to the comptroller, on oath, of all ashes which for 30 consecutive years past have been directly or indirectly withheld from the absentee, (both fit and unfit for inspection) whether stored for inspection or otherwise, (which includes scrapings, pickings, and "fine" ashes) as I am desirous to ascertain the power of conscience in certain cases in which scrapings have been withheld from your immediate constituents, (and others who can be named) and of which, at the present moment, they are ignorant.

"There are other amendments intended to cut up the frauds, (to speak in plain terms) on the absent country owner, the shipper and the consumer abroad injurious to them, and the inspector who does his duty according to law; for particulars of which I refer again to the communications to the governor, to the report of the committee of the Chamber of Commerce, and the memorandums furnished you last winter."

"Generally speaking, my impressions are, that to insure uniformity in inspection, an inspector general should be appointed, if not, that it should be made a misdemeanor, (punishable by fine or imprisonment, or both,) for any inspector to pass ashes as inspected or re-inspected, without first, in good faith, emptying out the entire contents of each and every cask, separating the fit from those unfit for inspection. For neglecting to register, (at the very time of actual inspection,) both kinds in his inspection book, (not a separate book which might be secreted.) For omitting to note the scrapings, (a most comprehensive term, by the by, as it includes fine ashes, pickings, sweeping, alias gold dust) on the back of the copy of the bill from which they were actually taken, not at the bottom of the copy from which they may be cut off. For giving a false date to an inspection bill, (or leaving the date blank to be filled up by clerks, &c.) so as to give to old ashes a factitious character. For taking up old bills and issuing new ones, falsely certifying to a re-inspection, whereas all actually done was shaving or dubbing off the year, say 1826 and 1827. To make it penal in any inspector, (clerk, foreman, cooper or labourer,) to falsify brands, they knowing the ashes had not, bona fide, been re-inspected. To make it penal in any inspector to withhold the annual return, (required by the 17th section,) from those who unfortunately had lost or mislaid their bills, &c. To make it penal in any clerk, foreman, cooper or labourer selling or disposing of any scrapings or other ashes, or as substitutes, (even under order of the inspector,) should it even be in part payment for wages."

"Perhaps a quarterly abstract from our books (filed with the clerk of the city or county,) might be a salutary check, if we had to testify it was a just and true return of all ashes both fit and unfit for inspection. For other particulars, I refer to the notes on the inspection law furnished you last winter."

Few persons, I opine, will doubt the necessity of instantly amending the 76th section, and to show that the 179th section also requires it, I extract further from the letter to Mr. McCall, as that section is worse than a "dead letter," practically, as Major Cooper, as late as 26th Sept. last, gave Messrs. Hart, Herrick, & Co. scrapings for patronage, (see Mr. Conkling's letter) which practice I think it is full time should be put a stop to, although I have, (since 16th August, 1824,) been told it has become prescriptive from length of time and usage; but in my humble opinion nothing can legalize a wrong.

The Harts appear to have a "hankering" after scrapings. It appears to be a family failing.

"On the 28th ult. 87 casks of your ashes were consigned to Mr. James N. Cobb, to obtain which I was compelled to stipulate not to charge storage till the 1st November next, which I acceded to because I was desirous to have the inspection on more accounts than one. In this way inspectors have played off against each other, and have taken ashes free

from storage for such a length of time, that when inspected, they found their entire fees gone, and they indebted for storage, from 1s. to 4s. per cask. It is needless to say that storage, (in whole or in part,) was indirectly obtained through scrapings, and in another way known to the trade. Some of your constituents were the sufferers. If any excuse can be pleaded for withholding scrapings, it would be under such circumstances when the inspector is deprived of his just dues, without which he cannot honestly meet his engagements."

To show also, the absolute necessity of amendments to the 64th section, I will extract from my letter to my brother, the late John V. Henry, Esq. of Albany, dated 12th June last, first premising that I stand ready to prove that every cask of ashes inspected in Albany, between 5th April, 1822, and the 21st December inst. received here, have been unbranded and with private marks substituted. "Concealment of inspectors' names, places of inspection, quality, &c. what can all this mean? On the very face of the transaction there is something radically wrong. See my letter to Dox & Stoddard, of 20th July, 1826, &c. in explanation. For disapproving of such like practices, I have been ruined in pecuniary matters, and been actually incarcerated in a jail, because I would not, under my construction of the 3d, 5th, 14th and 17th sections of act of 5th April, 1822, do as Messrs. Snow, Cooper, Bogart, Remsen, Dumont, Dox & Stoddard did to obtain and retain patronage, and have done, since the Revised Statutes, chapter 17, went into operation on 1st May, 1828.

"I wrote you on the 3d instant (from the debtor's apartment,) and gave it to a stranger, who promised to put it on board the steam boat, but from my having no reply, I am to presume it has miscarried. In it I made no request that you should incur any further responsibility, but merely that you would shorten my probation here, by giving me the benefit of the two third act, as the payment of my debts was (from fortuitous causes) entirely out of the question, consequently that the confinement of my person could answer no valuable purpose, excepting to the "rogues and speculators," spoken of by the joint committee in their report, (printed by order of the Assembly on 4th November last,) who "tempted" the "cupidity" of "Inspectors," and made them their "pliant tools," which the "poor inspector" (having a spice of your principle and spirit,) would not condescend to be."

No wonder that such a correct man as Colonel Varick should say in his letter :

"I am much obliged to you for the information communicated to me by the perusal of the enclosed papers, which I have read with a degree of surprise and astonishment. I would not have supposed that such bare-faced speculation could have been practised without being exposed long since, and the authors displaced."

Which governor Clinton, the honorable James McCall and the Joint committee, (see their report in the journals of the senate October 30, 1828 say, can only be done through the intervention of the grand jury; the frauds charged not being "evasions, but palpable violations" of the law and which it was my duty officially to put a stop to, as neither the executive or legislative authorities would or should interfere, as "the law was sufficient" if put in force by me.

"Every person, (man, woman and child) is directly concerned in every question relating to the accuracy of weights and measures. I did not move in this business until I had ocular evidence (in two months only) of 681 instances of actual fraud in the Albany weight and tare of ashes (putting quality out of the question) of which I will give a few instances known to myself and clerks, in "justification of my conduct as inspector," and will then dismiss this subject with this passing remark, that I may be compelled by circumstances to let the malpractices continue, but that I never should forgive myself, knowing the existence of the frauds on absentees, had I been silent, and voluntarily permitted them to continue for the time to come.



## EXCESS.

	cwt.	qrs.	lbs.		
100 casks	22	3	0	aver'g $5\frac{1}{3}$ per ct.	Showing conclusively, that my weights and scales or those in Albany, must be false and fraudulent.
100 "	17	1	15	" $3\frac{9}{10}$ "	
132 "	22	1	8	" $3\frac{9}{10}$	
140 "	40	2	22	" $6\frac{1}{2}$	
91 "	11	2	12	" $2\frac{3}{5}$	
42 "	22	1	21	" $16\frac{2}{3}$	
605 casks	138	0	22	aver'g $5\frac{1}{5}$ per ct. or 24 pr. ct. a cask	

"I presume Henry Wilkes will inform you that it was through his interference (after nine days confinement in jail) I have been bailed for the limits. He offered himself as special bail with Horace Wilkes, Esq. but was refused without they would justify, which they did not think fit or proper to submit to. The fact that such bail was refused, shows the vindictive spirit of my opponents, who I know secretly urged ———— to put me to all the inconvenience and expense he possibly could, in the hope and expectation that I would succumb to them when deprived of my personal liberty at this unpropitious season of the year. They little know what privations a person can submit to when under the impression he is suffering for "conscience sake," no matter whether the sufferer is under a "delusion" or not; perhaps he will endure the more should that be his actual condition.

"My opponents have frequently declared, that they and their partizans would prevent me from getting into any employ here, and have taken the diabolical but most effectual way to accomplish it by circulating a report, that my intellects were deranged. I hope in a few days to be in possession of some documents which will convince both friends and enemies that I have been too much "*compos mentis*" for all my opponents. If I get possession of the vouchers promised me, the warmest and most devoted friends of the inspectors will from the necessity of the case be compelled to abandon them in a body, take the "poor inspector" by the hand to save their own characters, as it will then be for their interests to say, "who would have thought such a state of things to have existed in the inspection offices here and in Albany?"

Your excellency will agree with me, I have no doubt, that the deceptive and fraudulent journal entries and returns under the 185th section, &c. bear me out in the averments I have made (putting aside what I have in reserve) and that the 64th section also requires amendment; but if there should be any "doubts" on your mind, what follows will remove them.

From a requisition made on me by Messrs. William and John James for certified copies of copies of bills dated as far back as June 2, 1825, issued by me unsigned, it appears that one of the "country innocents" has, after a lapse of 45 years, begun to "open his eyes" to the "self-evident" defect in the copies, he having no assurance whatsoever that those which have been forwarded to him were actually issued at my office, being neither verified by the signature of myself or clerk; and should the "country dupes" (now they begin to see) follow this up by an application to the next legislature to authorise them to demand that I and others should testify that the un-

signed copies we have issued to them, and the certified copies they may call on us to issue are both just and true returns of the weight of the ashes (both fit and unfit for inspection) which the casks contained when received into store, my prediction in the memorial submitted to the judiciary committee on the 7th April last (which was suppressed to save their friends from exposure) will be fulfilled as I say,

"The result of a call on inspectors to account, on oath, will be, that every inspector in the state (except your memorialist) will have to resign, at the urgent entreaty of their friends, the agents, to avoid disclosures of "secrets worth knowing," and accountability, both legally and equitably, with their country employers."

The owner of the ashes marked diamond S, whoever he may be, deserves credit for the invention. It is a "simple remedy," which all the "country dupes" now hold in their "own hands," and which only requires the legislature to give them the authority to peremptorily demand, should be verified both by signature and oath.

There was great trouble, sir, in the agency and inspection offices on this most appalling call of Mr. Diamond S, but what kind of returns were made by Messrs. Snow, Cooper, Remsen, and Dumont, to the requisitions on them, has been kept a profound secret from me, and to every application for his real name and residence, a "deaf ear" has been lent.

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### *Requisition.*

NEW-YORK, 4th MARCH, 1829.

"Mr. Robert R. Henry will please to furnish us with certified copies of his inspection bill of 15 casks 1st sort and 3 do. second, marked diamond S, inspected about 2d June 1825, as the owner is not satisfied without it.  
Respectfully, yours, &c.

[Signed]

W. & S. JAMES.

Dia. S,	15 casks	1 pot.	67 cwt.	3 qrs.	20lbs.	Insp. \$7 48	\$7 72
Do.	3 do.	2 do.					

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To which requisition the following return was made by me the day it was received.

NEW-YORK, 12th MARCH, 1829.

I hereby certify, that agreeably to the request, in writing, of Messrs. Wm. & John James, dated 4th March 1829, I have (in conformity to the presumptive meaning of the 64th and 81st sections of the Revised Statute, Chapter 17, passed 3d December 1827) issued this "duplicate" copy of "weigh-note," and do officially aver that I have this day examined my inspection books, and find that the fifteen casks of first sort potashes, and three casks second sort potashes, marked diamond S, were inspected on or about the 2d June 1825, by emptying out the entire contents and examining them agreeably to the 3d section of the act 5th April 1822, and that the weight of all the ashes received was, to the best of my knowledge and belief, accounted for in the bills and copies delivered to Messrs. James, and that no separate or supplementary bill (or copy) for any scrapings has

ever been issued by or for me to any person or persons whatsoever, which I certify, as the owner, it appears, is not satisfied with the returns I have made.

(Signed)

R. R. HENRY,  
Inspector of Pot and Pearl Ashes.

As I wished to write to the owner of the ashes marked diamond S, to know "why and wherefore" he was "not satisfied" without "certified copies" of bills (so long after inspection) under my hand, and to request him to send me the copies he had received that I might ascertain whether my clerk had obeyed my positive orders, always to note the scrapings so high up on the margin of the copies as to prevent the note being cut off, (a trick which I had heard had been played, the scrapings having by accident or design been noted so low down as to admit the note being "cut off," and still leave the copies apparently perfect) I wrote the following letter to Messrs. James'.

NEW-YORK, 16th MARCH, 1829.

Gentlemen,

I will thank you to send me, by the bearer, the name and residence of the owner of the 18 casks marked diamond S, inspected 2d June 1825, for which "duplicate" copy was issued at your request on the 12th instant, as I wish to ascertain why he was dissatisfied with my former returns, and whether it was not because the copy (or copies) were unsigned, a great oversight, by the by, in the legislature, which omission the owner (who no doubt is a practical man) has at last noticed and will join me in requesting his friends in the legislature to have rectified, together with the capital errors and omissions made by the revisers in their 85th section, and through inadvertence (no doubt) by the legislature in their 76th section, (and other sections) all which practically render the inspection laws as they now stand, worse than a "dead letter," in many important points.

Yours respectfully,

R. R. HENRY,  
Inspector of Pot and Pearl ashes.

Messrs. William & John James.

Every attempt which has been made by me, since the 16th March last, to get the "name" and "residence" of the "real owner" of the diamond S ashes, has been abortive, although a "fictitious" name has been given me.

On again reading Chadwick's certificate, a thought has struck me that the "requisition" was made in behalf of Messrs. Snow, Cooper, Remsen, or Dumont, on some of whom real requisitions were made, to draw from me, by finesse, the form of a return, and that by issuing the undermentioned circular, I might get at the real name of Mr. Diamond S indirectly, as I did the names of "delinquents" from the comptroller, the particulars of which will be found in my letter to the President of 29th October last, alluded to at the commencement of this communication, a copy of which, I presume, is in Albany, if not the original, and to which I now refer.

As I cannot go to Albany till after the 2d February next, and know (if not present) that the memorial and affidavit will be suppressed, as usual, if



sent, and further know what a powerful combination of interests will be brought to bear on your excellency, to prevent your laying this communication before the legislature, I cannot, on reflection, devote the intermediate time to better purpose, (considering what I have in view) than by writing the following "circular," and distributing it among those for whom I have acted as agent, factor, or inspector, and it will be "passing strange" if some of them will not, from self-interested motives, be induced to aid me in obtaining amendments so "self-evidently" necessary as those to the 12th, 64th, 76th, 80th, 171st, 174th, 175th, 176th, 177th, 179th, 181st, 182d, 185th, 186th, sections, &c. of that "chapter of blunders," commonly called the Revised Statute, Chapter 17, particularly the 76th section, by having the words, "or any crustings or scrapings of the same, or shall knowingly suffer any person or persons in his employ to do the same," inserted, (which, strange to tell, the Hon. John Duer told me he considered surplusage) or what would be far better, to repeal the whole section and re-enact the 14th section of the act of 5th April 1822; but this I presume to be inadmissible, as Mr. Duer informed me it was a principle in the revised laws not to give any part of the penalty to the informer; when I sarcastically remarked, "If so, we inspectors are safe," (meaning for the time to come) because the men in the office having the power to buy and sell, and the inspector, inspector general, and deputies, the power to issue bills with the "mystical" word "duplicate" written on it, by giving our "Cerberuses" a sop out of the scraping and picking dish, the inspector general, &c. could violate the duties of his office for years and years, and escape detection, with the exercise of common discretion.

If the executive and legislative authorities (after having the "palpable defects" in the inspection system as to "provisions, produce, or merchandise," made known to them) are willing their constituents should suffer under them, so be it, and I will then "throw up my cards," and join my children in Georgia, where I cannot be a sufferer directly or indirectly. See my letter of 11th September 1823, to the Hon. Benjamin F. Butler, for my motives for action.

I will mention one case more, to show you, sir, what a "worthless thing" the Revised Statute is, and then close with the copy of my contemplated circular, in case your excellency does not think fit or proper to lay this before the legislature immediately on their meeting.

That Mr. Isaac Bogart, not having been one year in office, cannot have any unclaimed ashes to report to any auctioneer, under the 171st section, is certainly true; (he having illegally made way with them; see my report on the journals of the Assembly, extra session, 63) of course he has no "duplicates" to transmit to the comptroller under the 174th section; consequently he will give my all-important 175th section the "go-by" on the 1st January or February next, and for ever afterwards as long as the right to issue "duplicate" bills on the mere averment of the person "claiming or demanding" that he is the owner, showing no "legal" title by the exhibition of original bills or receipts.

All, therefore, he has, or will do, to escape the penalty under the 177th section, (6th and 11th of Hart's law, amended by Butler) is to file my oath under the 176th section, with the comptroller,

"That there have been no articles, subject to inspection, stored with him, which have remained not claimed by the owner within one year from the time they have been inspected," which is literally true, because the property has been "converted" (from time to time) by him into cash, and he holds the proceeds directly or indirectly in abeyance, thus complying with the letter, but violating the spirit of the laws.

This is precisely the situation of Messrs. Robert Snow, Samuel Cooper, William Dumont, and Robert R. Henry, who have legally or illegally made way with all the unclaimed property, and have only to file the oath under

the 176th section to escape the penalty of \$2500 and imprisonment. But even that will be unnecessary, as one of the partisans of the inspectors says, that when your excellency was last in this city, the inspector general was fixed upon, and that the first act after the 1st January will be his nomination and appointment, which will supersede all our commissions; when, as private citizens, it will be optional to make the reports for the ensuing year under the 176th or 185th sections, or not, which, with Hart's 5th section, will be a quietus to all acts of omission or commission done, or suffered to be done; consequently, that I might save myself the trouble of sending this communication, as it would be laid aside. But on the contrary, a friend of yours tells me to pay no attention to what they say, for, that constitutional duty out of the question, he has mistaken your character, if with this document on your hand you will make the nomination, and by such a finesse, allow the inspectors, &c. to escape from all responsibility, and pocket the proceeds of unclaimed property which justly belongs to the treasury, (when the real owners do not appear "legally" to claim) as escheats, placing us, in fact, in the situation Inspector Bogart placed himself in August 1824, and Inspectors Remsen and Wilson in January or February 1829, by their resignations; on the contrary, that the rule of President Jackson in the case of the collector of Alexandria should be adopted by you, not to accept or cause resignations, when they give defaulters an undue advantage they otherwise would not have possessed. See also my letter to Benjamin F. Butler, Esq. of 11th September 1828, relative to the privilege of commuting with money for duties required to be performed (under the 174th, 175th or 176th sections) under the 177th section.

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### *Contemplated Circular.*

Sir,

On the 14th July 1824, I connected myself with Major Samuel Cooper, inspector of pot and pearl ashes, and found him practically a convert to the principle that scrapings and crustings were not "potashes," and that the withholding the "Bogart commixture" (which he in 1808 reprobated) from the absentee, and "converting" them by sale (or as largesses to his men, &c.) to his private uses, under "duplicate" bills, issued to Mr. John H. Remsen and others, was not a violation of duty, particularly as Mr. Inspector Snow's practice also was to omit to note the scrapings on the "weigh-note, and to bestow them in whole or in part (with other "unclaimed" ashes—as largesses, on captains and other agents to obtain and retain patronage, and occasionally on clerks, &c. to secure their acquiescence.

Deeming the "practice" both illegal and immoral, I separated from the major on the 16th October 1824, since which I have tried various ways (by circulars, letters, reports, memorials, &c.) to draw the attention of "Absentees" to the omission of Scrapings, *alias* Pickings, on their copies (which were unsigned, consequently no way "legally" binding on us) but all my "well meant" efforts failed until the 12th March 1829, when I had the pleasure of receiving the following requisition from Messrs. William and John James, an agency house in this city. (Here I will give a copy of their requisition for certified copies—my return—the letter to Messrs. James, with Chadwick's note, and then say)

The owner of the ashes marked [S,] whoever he may be, deserves credit for his discovery of a mode of "self protection" for the time to come, being a "simple remedy which all the country innocents now hold in their own hands," and also for the past, provided they will join with me in

requesting the Legislature to give them authority peremptorily to demand from me and others, that we should verify by signature, and should there be any doubts that the unsigned copies which have been issued were fraudulent, that the inspector should be required to swear that the copies issued, (whether signed or unsigned) did contain the entire weight of all the ashes received, both fit and unfit for inspection, with the exception of what might have been "picked" or "cribbed," by the men (unknown to us,) the sample ashes, and what may have been given away in small quantities for domestic uses, but with no other exceptions whatsoever.

My object in making this communication, is to get you, Sir, to co-operate with me in obtaining amendments to that chapter of blunders, commonly called the Revised Statute, chapter 17, the most effectual way to accomplish which, will be to transmit this circular to the representatives from your county, and request their concurrence. Asking for nothing but what is to be binding on myself in case I should be permitted to have "art or part" in the inspection of ashes, "sinister motives" should not be imputed to me, in addition to which I wish amendments to protect myself (and indirectly absentees both at home and abroad,) in case I have again to become a dealer in the article, as I have made myself so unpopular with the "powers that be" that it is determined I am to be neither Inspector General, Deputy, Clerk, Foreman, in fact any office directly or indirectly appertaining to inspection of "Provisions, Produce or Merchandise," an event by the by, not much in favour of the absentee, which they will experience in case I conclude to become a Georgian.

Any person not acquainted with the transactions in inspection offices, would suppose my return to Mr. S. was perfect in its kind, but to show you how many "loop holes" I have left myself to "creep through," I exhibit them as "broad hints" for legislators, from which additional disclaimers to the 175th section of the Revised Statute may be framed, until which is done, I contemplate adding some one or more of them to future requisitions after the word "whatsoever," as they embrace many of the covert mal-practices of the trade.

1st. Neither have I directly or indirectly given any merchantable or unmerchantable ashes (alias, "unclaimed" ashes, scrapings, crustings, fine ashes, gold dust, sweepings, alias pickings, alias the "Bogart" commixture) as largesses, to obtain or retain patronage.

2d. Nor the proceeds of such ashes in the shape of money, clothing, cartage, storage or otherwise, directly or indirectly.

3d. Nor to printers in lieu of money, for newspapers, or any other periodical production.

4th. Nor to clerks, foremen, coopers, or labourers (either in money or kind) to obtain or retain their "good will" or in part payment of wages or services, or as a compensation to agents, brokers, "convenient friends," or otherwise.

5th. Nor have I ever designedly omitted the entry of any scrapings or crustings, or fine ashes, or suffered them to be omitted by my clerks on the copies, (or in the book to be kept for that purpose) on any pretext whatsoever, such as that they did not amount to a "certain quantity," or under the hope or expectation that the "country innocents," (absentees) would not notice the omissions on the copies, and consequently would not "claim or demand" them, they not having the "gift of divining" that 3 per cent. of their ashes was placed in a state of abeyance without their knowledge.

6th. Nor have I ever designedly noticed the scrapings so low down on the copies, as to admit of their being "cut off," and still leave the copies apparently perfect.

7th. That I have not directly or indirectly, (by myself or any broker, clerk, or other agent or "convenient friend") sold or otherwise made way with illegally under "duplicate" bills, by substitution or otherwise, any



"trust ashes" (or property) or as substitutes for other ashes (which could not be found) excepting as to one barrel of scrapings, whether fit or unfit for inspection, which had been stored with me for inspection or otherwise, contrary to the letter or spirit of the inspection laws, particularly those of 1822, 1827, and 1828.

8th. That I have not directly or indirectly admitted any "fictitious claims" to ashes (either fit or unfit for inspection,) or the proceeds of them to avoid depositing the proceeds in the treasury, agreeably to the above acts, consequently that no ashes or the proceeds are held or placed (directly or indirectly) in abeyance, and that no reports or affidavits required by the laws, have been withheld by me from auctioneers, the comptroller, the real owners, or the legislature, as I aver has been done by the other Inspectors under the acts of 25th February 1813, the 5th April 1822, but particularly under the 64th, 171st, 174th, 175th, 176th, and 185th sections of Revised Statutes, chapter 17, of the 3d December 1827, and the 5th and 6th sections of the act of 14th November 1828, as the journals of the senate and assembly, the comptroller's files, the circular of the comptroller of the 11th July 1829, the treasury books, and the files of the Attorney General will conclusively show.

I beg leave to draw your particular attention to the report of Mr. Inspector Dumont, which you will find in the journals of the assembly, 2d February 1829, pages 340, 341, &c. to which you will find attached the following extra judicial return, which "legally" should have been filed with the comptroller under the 174th section of the Revised Statute, chapter 17, or the 4th section of Hart's law of 14th November 1828, when it would have been judicial.

"The bills of the following marks, consisting of from 14 to 308 lbs. of scrapings or crusted ashes were inspected by Mr. William Dumont, previous to the 1st of May last, appear not to have been claimed, will be sold at auction according to law by W. W. Whetmore on the 3d day of March next, unless "legally" claimed previous to the day of sale.

1826.	1826.	1826.
June 7, C. Morris.	Oct. 7. S. F. P. & co.	July 10. E. S. Sterling.
" 10, A. Davenport.	" 13, S. H. A.	" " W. S. Ely.
" 11, J. B.	" " S. & E.	" " Hide & Richards
	1827.	
" 26, J. J. Brinkerhoff.	March 27, S. Pratt.	Aug. 30, J. S. & T. M.
" " L. Wiley.	" " S. Fuller.	" " B. & Beebe.
June 29, Merrill & Fink.	" " W. Russel.	Sept. 1, M. Rowley.
" " O. Lee.	May 4, P. F. P. & Co.	" 8, S. F. P. & Co.
" " G. Fislin.	June 1, S. J. Brickerhoff	" 15, A. Dart. †
" 30, J. Smith.	" " Smith & Everts.	" 8, C. S. & Co.
	1827.	
" " B. Byington.	" " Cyrus Smith.	Sept. 12, D. L. Sayre.
" " J. Osgood.	" 12, C. Morris.	Oct. 9, H. & Bull.
July 3. J. Smith.	" 14, D. Collins.	" 12, do. do.
" " W. S. Ely.	" " D. Baxter.	" " N. Foster.
" " O. Stone.	" 27, M. & Fink.	" 26, J. Hill.
" " E. S. Sterling.		1828.
" " J. Beals.		March 14, J. H. & S.
		Leonard.
		April 19, R. B. & Co.
		" 28, J. S.
		" " R. S."

There is something very remarkable in the wording, &c. of the above report, (see act of November 1828,) forty-eight different parcels of ashes only "appear not to have been claimed." What is the probable reason

they have not been claimed? Why, "I guess" not eight out of the forty-eight have the scrapings noted "on the copies of the bills from which they were taken," as is imperatively required by the 5th section of the act of 5th April 1822; a "bad precedent," which the junior inspectors had set them by the senior inspectors, to the great damage of the absentee.

Those ashes having been sold by the auctioneer, and the proceeds deposited in the treasury, how are the persons above named to shew legal title to the comptroller? The unsigned copies should be no "legal" or equitable vouchers in the eyes of the comptroller, because he can from them have no assurance that they are actually Mr. Dumont's, without the clause be passed authorising those persons (and all others) to call for copies verified by signature and oath, which is an all important amendment for the absentee, as it will with the other amendments which I shall propose, be effectual guards against abuses for the time to come.

The efforts I shall make the ensuing session to obtain amendments, &c. are the last I shall attempt; for if the country owners will not aid me, and are contented with unsigned copies, &c. I should be.

I am, Sir, your most obedient servant,

(Signed)

R. R. HENRY.

Inspector of Pot and Pearl ashes.

To Mr. —

The fact that Mr. Dumont omitted to note the scrapings on his copies in 1825, (when his patrons, Keeler & Rogers and others requested it,) will not be denied by him, consequently it is fairly to be presumed he did the same in 1827 and 1828.

As I have from experience found that "half way measures," when principle is at issue, are the worst that can be pursued, I aver, and stand ready to prove, (if they dare put me to the proof,) that scrapings were omitted designedly by him, Robert Snow, Samuel Cooper, John H. Remsen, (and by Mr. Bogart till his resignation) down to the 30th April 1828, and by Messrs. Snow, Cooper and Remsen, certainly since the Revised Statute chapter 17, has been in operation. See Mr. Conkling's letter.

As I will have as much to dread (as a buyer or seller of ashes) from inspectors general Snow, Dumont, Cooper, Bogart, Remsen, &c. and more, (as they have now the power under the 80th section to appoint as many assistants as they think proper,) it is all important for me and others, to have the "legal" right to demand certified copies on oath, whenever we suppose we have been cheated. Every person will admit the 3d and 5th sections of the act of 5th April 1822, are plain and binding enough, but they were rendered a "dead letter" practically, the copies being unsigned. I will give two strong cases in point.

When the act of 5th April 1822, was received, Mr. Inspector Bogart entered the scrapings on the copies, agreeably to the 5th section. An agency house inquired the reason for such an extraordinary entry on his or their copies, and was told, that as no mention was made of scrapings in the act of 1813, they were generally withheld, (and not noted on the copies) and given to them and others for their good will and patronage. That complaints had been made to the Hon. Ephraim Hart, (see my Memorial, suppressed by the Judiciary Committee of Senate, for particulars) who had introduced amendments into the 3d and 5th sections, requiring the scrapings to be noted on each and every copy. Mr. Bogart was told if he did not discontinue the practice of noting the scrapings on the copies, they would immediately transfer their business to Mr. Snow; and Mr. Bogart would

have yielded the point, maugre the law, had it not been for the advice of his coloured man, Isaac Heddy. On his refusal, the business was transferred to Mr. Snow, who omitted to note the scrapings on the copies down to 30th April 1828, if not since then.

Again. I had been frequently told that was Mr. Snow's practice, but I had no ocular evidence of the fact until 7th January 1825, when a quantity of ashes (marked J. W. Strong, W. Pixley, & Co. Hart & Lay or Saxton, C. Cary, and — Kimberly) were brought from Mill-street, to the store in Stone-street, (where I then kept my office) the scrapings on which (nearly three large casks) were taken out and thrown into a common mass without any regard to individual rights, and they were set side (the foreman told me) for account of the agents.

When I submitted my letter of 4th March 1825, (to Governor Clinton) to Mr. Snow, at his office, on the 7th or 8th March, he told me he had been compelled to give scrapings to captains and other agents, or lose their patronage, as Mr. Bogart gave.

The complaint of agents against Maj. Cooper is, that he literally took all the scrapings, and would make no division of the "prize," (as Mr. Snow's men call it, see Mr. Conkling's letter) "share and share" alike, contrary to the 64th section, although not exactly to the 76th section, as he does not sell, only gives.

I am well aware, sir, that the 5th section of Hart's law, and the highly reprehensible if not criminal neglect of the comptroller and attorney general, in not enforcing the 177th and 186th sections, releases all inspectors from responsibilities for all such acts done or suffered to be done; but these "cases in point" are given to show the necessity for certified copies on oath for the time to come; if not, the inspection system will be a nominal thing.

If I was in the place of agents, I would quickly render the operation of certified copies on oath as to their effects on past transactions a "dead letter," by requesting all my friends in and out of the legislature to have the amendment passed, and when requisitions came for "certified copies on oath," I would tell Messrs. Snow, Cooper, Bogart, and Dumont, "Your safety and mine requires you to follow Henry's advice given in letters to Cornelius V. V. Leonard, Nathaniel Conkling, James Powers, and Isaac Heddy, (who are in your employ as clerks, foreman, and cooper) dated 25th and 26th July 1823. Resign in their favour, in case an inspector general is not appointed, when, as "deputies or private citizens," you can laugh at Henry's 174th, 175th, or 176th sections, and his amendments to Hart's 6th and 11th sections, and his "certified copies on oath."

The public impression, sir, has been, that in the transactions at St. Mary's and here, I have been acting on my own mere motion and without advice. The letter to Lieutenant Governor Pitcher of the 11th November 1823, contains a letter to me from Governor Clinton of 12th October 1823, showing that what appeared after that date from me relative to the St. Mary's affair, must have met with his approbation, and in fact my recent letters to President Jackson of 1st, 2d, and 7th July last, are predicated on his advice to avoid the "slave business," as far as possible, whenever I again brought the collector's affair forward, (which I told him I should do, on any change of administration, if it was 20 years afterwards, provided the collector was continued in office) and confine myself to the use and conversion of Bilbo's custom-house bond to private uses, which every person would agree with me was fraudulent, and could I (without breach of faith) produce a letter dated 13th March 1827, marked "private," it would show that some "advice" relative to the inspectors, and the course I should pursue with them, was given, which, by the by, I did not then follow, as vindictive motives would be imputed to me, although I acted officially.

Previously to my writing the letter of 4th March 1825, to Governo



Clinton, I consulted that luminary of the law, Chancellor Kent, relative to what I deemed illegal practices, under the act of 1822, who told me, if it was a fact that Snow, Cooper, and Bogart, had withheld the returns required by the 3d, 5th, and 17th sections, they were not evasions, but flagrant violations of both the letter and spirit of the law.

Fortified in my opinions and practice as an inspector, by the sanction of such men as De Witt Clinton, Chancellor Kent, Nicholas Devereaux & Co. the Hon. James McCall, the correspondent of De Rham & Moore, Samuel Corp, Esq. Col. Richard Varick, John I. Mumford, Esq. and Mr. Nameless, (whose name, if I was at liberty to give, would make agents and inspectors "tremble in their shoes," as his letter shows him to be no common character) I ventured to differ in opinion with my esteemed brother and other friends, (who would not even look at my documents) who admitted I was right in principle; but said the powerful combination of inspectors, agents, brokers, senators, clerks, chairmen of joint and special committees, who voted as they directed, aided by the comptroller and attorney general, was too much for me, standing alone and without a cent in my pocket.

But he and they little thought that "journal entries," and "circulars," which cannot be "yazoo'd," would place me on the "vantage ground," without the "constituted authorities" lay both law and justice aside, and allow their "constituents" to continue to suffer under the 17th chapter of blunders, rather than suffer a few corrupt public officers from being exposed to merited punishment, and countenance the "barefaced speculation," &c. spoken of by Col. Varick in his letter.

I regret I did not take Chancellor Kent's opinion (and several others whom I consulted) in writing; but those I have received are so much in point, that I beg leave to give them for your information and that of others, for to be candid with you, sir, nine sheets of this communication are already copied and in circulation, and the rest will be as soon as I can complete them, so that part of the contents will be known before your excellency receives the original.

The clerks, &c. therefore, had better follow General Ward's plan, by complaining to the Houses themselves against my "libellous allegations," and get the "whip hand" of me, which would have a better appearance than to be brought up to the "ring bolt," by the "poor inspector," which they assuredly will be, (after the 2d February) life, health, &c. granted me by a benign Providence, as the entering "spurious reports" and letters on the journals are certainly "bad precedents," and cannot be too soon checked. See my report on the journals of Assembly, 20th October 1823, relative to "bad precedents."

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Utica, September 8th, 1825.

Dear Sir,

We received some days since your inspection bill of ashes, dated 25th July. For the future, the ashes you may inspect for us, you will please have the name in full on the copy opposite to the number, and you will oblige us by being as exact and particular in this respect as possible. The barrels marked H, make out in a separate bill. In the bills received, there are four barrels of this mark included with them without.

Very respectfully we are

Your obedient servants,

NICHOLAS DEVEREAUX & Co.

P. S. When ashes cannot be put back into the barrel, we want a memo, or the copy of the quantity, and should it be put in another bbl. it is necessary

we should know it. We take ashes from different owners, and it is right we should have the return of each barrel.

N. D. & Co.

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Such should have been the instructions from every agent; but, though "passing strange," they were the very reverse. See notes on the margin. For one of the reasons for Nicholas Devereaux & Co. being so particular, I refer to my letter to the Comptroller, of 21st January last, and for other reasons, to Mr. Alexander Black, and his friend, Mr. Milne, for "secrets worth knowing."

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New-York, 2d April, 1827.

*To Mr. Robert R. Henry.*

Dear Sir,

I am indebted for your two letters of last week, accompanied by various statements and suggestions as to abuses in the inspection of ashes in this state; and although I have been personally for many years out of the way of transactions in this important commodity, I feel persuaded, from my conviction of the sincerity and accuracy of your character, (so long ascertained on my part) that your observations cannot have been made without good grounds.

Unhappily, however, I have long since observed, that evils of this kind creeping in silently and by slow degrees and not growing to a great degree of atrocity, are with difficulty corrected, and that he who labours to repair the abuse, too often meets enmity and ill will in return for even distinguished zeal. In the present case, personal benefit will be supposed to have some share in the discussion, and therefore your observations will be more exposed to scrutiny.

For myself I cannot but imagine that your perseverance in the faithful and conscientious course which I am convinced you have always adopted, will secure you ultimately, if not a preference, yet at least a perfectly fair post of competition. A degree of interest, however, either with the owners or the consignees of ashes, I know is indispensable towards a fair chance for your celebrity, to which I most cordially wish that I could contribute.

As you have introduced to my observation a few names to whom you have addressed yourself, I shall take occasion to subjoin a few more, of respectable and important standing with us, (especially in the line of business under consideration) whose judgment, if you can convince as to the subject of complaint, I have no doubt, from their personal candour, that you will secure their attachment.

I remain, dear sir, with great esteem,

Your faithful and obedient servant,

[Signed]

SAMUEL CORP.

The names to which I would more immediately refer you are, Abraham Bell & Co. James McBride, John Flack, Samuel Hicks & Son, F. Thompson & Nephews, James Magee & Co. Mackee, Lockhart & Co. John H. Howland.

P. S. On perusing a second time your favour of 30th March, I observe in its conclusion an appeal to my opinion as a mercantile man,

“Whether I should think you in error in refusing to substitute new bills for old?”

I should certainly not blame you for giving a new and clean bill in place of an old one which might have become defaced or mutilated.

But if a person should require you to issue a new document, varying in date, quality, or other important circumstances, from the old, I trust you would unequivocally convince him on the spot of his mistake, in applying to you on the occasion.

S. C.

A “deaf ear” was lent to “all my suggestions,” by the President of the Chamber of Commerce, the shippers, the printers, &c. owing to the superior influence of agents, brokers, inspectors, &c. until 20th July 1827, from which period up to the 10th October 1827, advices from Antwerp, Havre, Liverpool, London, Belfast, &c. more than confirmed my mercantile and official predictions; consequently, the Chamber of Commerce, printers, senators, Governor, shippers, &c. moved simultaneously, and the Chamber of Commerce, Committee of the Houses, consulted the “poor inspector.”

Had they been so wise as to request him to attend at Albany, the “sad mistakes” made by the revisers and the legislature in the 17th chapter of blunders (particularly in the sections 64, 76, 171, 174, 176, 179, &c. under which absentees have since been suffering) would not have happened, and the necessity for the present application would have been prevented.

Previous to my giving the letter from Antwerp, I beg leave to extract from a memorandum I made, showing the state of things which existed up to the 1st of May, 1823, when the Revised Statutes, chapter 17, went into operation, since which the same practices have been continued, only more covertly, as I stand ready to prove, ashes having been “sherryed” as lately as the 24th of June last, to the great gain of the seller, but loss of the shipper or consumer, at home or abroad.

Is it anyway surprising, sir, that I should find fault with such unfair practices (to say the least of them) as I have and will now give, which were every-day transactions until I checked them? How an inspector may bribe a broker, or agent, or owner, (without giving money) and get his patronage; and how an inspector by constant refusal may lose his patrons?

A broker holds in his hands new bills, which I told him had been issued for old ones: he said the practice was common (see the *Morning Courier* between the 19th of July and the 17th of August, 1827, in which Mr. Mumford, who had been a broker, also states the same fact) that some bills which he had purchased of 1827 inspection, he found on examination of the books, were inspected early in September, 1826.

“I have in my possession a bill dated April 5, 1824, for which a new bill was obtained, dated on or about the 18th of February, 1825, (from an inspector who had never seen the ashes) and they were palmed on John De Ruyter, Esq. as freshly inspected ashes, as was another parcel on April 13, 1827, on another house. I know of a case, in which old ashes (sent down by mistake unaltered to the vessel) had the old brands effaced and new ones substituted!” See my circular of March 19, 1823, in which I charge the fraudulent practice by name on Messrs. Snow, Cooper, Remsen, and Dumont; but neither of them dare to bring me to account (although I offered to waive all forms of law) as they knew I would prove the fact by their clerks, &c. Say John Brower, Joseph Conkling, Nathaniel Conkling, William Anderson, Cornelius V. V. Leonard (putting the clerks of brokers and agents out of the question): they pocketed the insult.

Let us see what ex-broker Mumford says on the subject in his *Morning Courier* for Friday, July 20, 1827.



"Pot and Pearl Ashes.—We have been favoured with the following letter, with the liberty of using the name of the very respectable house to whom it was addressed. We have for some time been apprised that there were serious complaints against some of our inspectors; but as we were assured the subject would be brought before the grand jury, and were not in possession of all the facts, we have hitherto refrained from the comments which the subject now imperiously demands.

"We have spoken in no measured terms of the frauds in cotton, and think no penalty too heavy for the perpetrators of them; and now that similar frauds are brought down to our own doors, we pledge ourselves that our columns shall not be neutral on a topic of such vital interest to our merchants as the deception in ashes, of which the letter so strongly and justly complains."

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*To Messrs. De Rham and Moore.*

ANTWERP, MAY 29, 1827.

"My letter of the 25th inst. was scarcely gone, when several of my best customers called and complained bitterly of the quality of the ashes received by the Alfred, Capt. Scule, and they have left the greatest part for my account. They say first: That the ashes are mixed with sand and dirt, for that after they are dissolved a very heavy sediment settles at the bottom of the tubs, which diminishes considerably the strength of the ley, which is found to be from 5 to 8 per cent. weaker than that proceeding from Russian ashes.

"2d. That the strength of your ashes was formerly from 10 to 12 degrees more than Russian. Now, Russian are already 2 to 4 degrees better than yours; in consequence of which my customers have ordered a supply of Russian ashes, which come cheaper than yours. In consequence of which I am compelled to change my operations.

"I give you the information in order that you may warn your inspectors; and that measures may be taken, without which, America will eventually lose that branch of commerce; and I am now compelled to annul my order of the 18th of this month for 500 barrels."

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I was going to extract further from Mr. Mumford's "editorial remarks," (which will apply to the present state of things as well as in 1827) ashes having been "sherryed" (alias the old brands effaced and new ones substituted as lately as 24th June last) which, under the Revised Statutes, as it now stands, can be done with perfect safety (with consideration) for who will assume voluntarily the odious office of informer even officially, when nothing but loss and obloquy can accrue to him personally on complaint to a grand jury?

To save trouble, I send your excellency my extracts from the Morning Courier. Something should be done to put a stop to unfair practices. I will suggest effectual remedies if I am sent for, without which, make any law, sir, you please, and I can give it the "go by," as I told the comptroller in my letter of October 23, 1828, and the special committee of the senate on the 28th of October, 1828, (suppressed) which I would not commit to paper, but would impart verbally to the committee, as I am desirous the

law should be called truly "Henry's law," (see my letter to the hon. Benj. F. Butler, of 11th September, 1823, and my report on the journals of the assembly, October 1823, &c.) but I was not sent for as the Hon. Truman Hart, and the persons who assisted him in framing the report and bill, supposed it related to the income his friends derived from scrapings, &c.

As I was told so frequently that it was impossible that Maj. Cooper, a revolutionary character and a member of the Cincinnati, and Mr. Inspector Snow, a religious man, could be guilty of such malpractices as I alleged against them, I was induced to send certain documents relative to the "affair" to Col. Rich'd Varick, President of the Cincinnati, (a friend and companion of the Major) and to Mr. Nameless, a friend of Mr. Snow (which he would acknowledge he had been, if I was at liberty to name him) which documents were returned with the following written opinion on the cases :

JERSEY CITY, 26th May, 1823.

Dear Sir,

I am much obliged to you for the information communicated to me by the perusal of the enclosed papers, which I have read with a degree of surprise and astonishment. I could not have supposed it possible that such bare-faced speculation could have been practised without being exposed long since, and the authors displaced.

I am, dear Sir, very respectfully, yours,  
(Signed) RICHARD VARICK.

Mr. ROBERT HENRY,  
Inspector of Pot Ashes, New-York.

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New-York, 23d November, 1827.

Dear Sir,

I have read over the greater part of the papers you committed to my inspection. I have not gone into the whole, because I believe my previous acquaintance with the subject, the many conversations I have had with you thereon, and the charges which are repeated in several shapes, explained to different individuals, and supported by various appeals, are thoroughly understood by me, and may be briefly summed up thus.

Alleged frauds on the makers of ashes:—scrapings not accounted for. Unclaimed ashes not advertised.

Alleged frauds on shippers of ashes, being generally incompletely, and sometimes unfairly inspected.—False dates being assigned to inspection.—Pretended re-inspection, without examination.

I am also sensible that the injuries I have placed in the second class, may concern those of the first, (I mean the makers,) not only as such frauds tend to affect the character of New-York ashes generally, but on the principle, that every fair dealer suffers when his article is placed on a level with that of the dishonest. But keeping this position in view, I think you have laid an undue stress on the maker's share of the evils that have existed. That all men should act honestly is certain, and that those executing a public trust are more especially bound to discharge its duties faithfully, is equally true; but while these axioms are undoubtedly correct, yet as a practical matter, a man who is defrauded will receive from the public but little commiseration if he has a simple remedy in his own hands.

The charges against the present inspectors may also be considered as breaches of public duty: first, in not complying strictly with the letter of the law, in which respect the offence is rather of a legal than a moral character; and secondly, which is of far greater importance, they have been

guilty of a criminal negligence and actual fraud on the public. Assuming this to be the fact, can past instances be dealt with in any way but by criminal prosecution, founded on individual cases? In respect to these, there appears no other mode of proceeding, and until adopted, public and private opinion must be suspended.

Is there any remedy for the past, or security for the future to be expected from additional oaths? Will the man who scruples not to cheat, after swearing to be faithful, refuse to take another oath, (if necessary) that he has been honest? In a word, can a man who will rob, be deterred by the force of an oath? I think not; and it seems to me, that however proper it may be, to make and enforce general regulations, a man who cannot be kept by such guards from appropriating to his own use the scrapings, will (if dishonestly inclined,) transfer his attack upon the more valuable ashes. A multitude of legal enactments frequently entangle honest men, while they are mere cobwebs for rogues. The best security is to be found in the appointment to office of men of good character on the one hand, and the vigilant attention to the interest of those concerned, on the other.

I do not think that persons generally will concur with you in presuming guilt from the determined silence of the parties. When a charge of a highly criminal nature is made against an individual, whether he be innocent or guilty, I consider him justified in refusing all reply, until brought into a court of justice. I wish you much success in your endeavours to benefit the public, and more to your individual advantage. With the hope that they may be brought to combine, I am, with esteem,

Your sincere friend,

(Signed) \_\_\_\_\_

R. R. Henry, Esq.

I regret I am not at liberty to give the letter entire, with the name of the writer, for if so, it would cause the greatest alarm in the minds of both inspectors and ex-inspectors, agents and their partisans, that such a man should advise the course he evidently does, for we all know that the "simple remedy" which we have in our "own hands," means the "grand jury," which the "joint committee" subsequently (Journals of the Senate, Extra Session, October 30, 1828, 65,) also say is the proper forum, the practices charged being not "evasions, but palpable violations" of the statute. By the by, this was also the opinion of governor Clinton and Mr. Mc Call in 1827.

Happily for me, I now have nothing directly to do with inspectors, (unless I choose voluntarily to act before a grand jury) as the imprudence and impolicy of my opponents in making fraudulent entries upon the Journals of both Houses, fraudulent returns to the legislature, but above all, the imprudent letter of the honorable Mr. Johnson to his friend Colonel Stone, (exposing the deceptive nature of the entries made by the clerks, on the Journals, 6th and 7th April last, 960 and 413,) the unwise circular of the comptroller, and the "neglects" of positive duty under the 177th and 186th sections, afford "Remedies," putting certified copies on oath out of the question.

I wish, sir, on principles of public policy, to draw your particular attention to the importance of the reports to the legislature, and (in a political and moral point of view,) to put the question home to you, (as conservator of the laws,) whether the deceptive reports of Messrs. Snow, Dumont, Mc Carthy, &c., are not more blameable than the total neglect to make any by Messrs. Cooper, Remsen, Lowerre, Howard, &c., (see list of defaulters,) to report both "fees" and "emoluments derived from his office;"



because they made no attempts to deceive the legislature, (by "or" or "and") as others have done. See the reports and the estimates predicated on them for particulars.

The practical results from the "neglects" of duty on the part of the Comptroller and Attorney General, under the 177th and 186th sections, will be exemplified in a few days hence.

No return having been made this year (preceding year) to auctioneers, under the 171st section, no duplicate can be transmitted to the comptroller under the 174th section, of course all of us inspectors of ashes give the all-important 175th section the "go by," and have only (with the inspectors of "provisions, produce, or merchandise,") to file the oath, No. 176, (to escape the penalty of the 177th section.) "That there have been no articles subject to inspection, stored with him, which have remained not claimed by the owner within one year from the time they shall have been inspected." How inspectors, who for thirty consecutive years past, have been selling the unclaimed property, (ashes, beef, pork, flour, &c.) illegally at private sale, and have not paid the proceeds to the owners nor into the treasury of the state, can conscientiously take the above oath, I cannot say, but I suppose that the comptroller will excuse them; for I will be told by inspectors of ashes, that Hart's 5th section legalises all illegal sales, under the acts of 1813, 1822, 1827, and 1828, and that they paid the proceeds to the owners; which mere averment is *prima facie* evidence of the fact, that they have done so till the contrary is made "legally" to appear. That the legislature having sanctioned the report of the joint committee, declaring the word "*Legal*" to be "*Unnecessary*," they are the sole judges of title, and have the right to insist upon or dispense with the exhibition of "original bills or receipts," and to issue "duplicate bills" when and to whom they please, without giving any account to any one.

Did the legislature in passing Hart's 5th section, and rejecting the word "*legal*" as "*unnecessary*," contemplate such results from their acts? Certainly not. I repeat that they have never been so deceived since the days of Col. Burr. Look, sir, at the dangerous nature of the "discretionary power" vested in us of issuing duplicate bills uncontrolled. Suppose an inspector have a note to pay, and not to be in funds. He inspects (or orders his deputy to inspect) as many casks of the "trust ashes" as are necessary, (provided the "scrappings" and other "unclaimed ashes" withheld from absentees are not sufficient) puts on them a "fictitious mark," say Andrew Jackson, writes on the bill the "mystical word duplicate," hands the bill to his clerk, (or broker,) who converts the ashes into cash, and when the ashes used are called for by the "owner," he supplies their place from other "trust ashes," by substitution. See my letter to the president of the Chamber of Commerce, as far back as the 13th of June, 1825, part of which will be found in the extracts from the Morning Courier herewith, to which I beg leave to draw your particular attention. As I shall probably have to become a dealer in ashes, I shall not deem myself safe should this "discretionary power" be left in the hands of inspectors general or deputies; for as Governor Van Buren justly remarks, "Such power cannot be entrusted to any one without danger of abuse." I put the question respectfully to your excellency, whether constitutionally this communication can be withheld from the legislature, although it implicates political friends directly or indirectly? The proofs of their deviations from duty should be on file in the respective offices, and to them I appeal for the absolute truth of the charges.

As my 175th section requires the inspector to swear that he had "duly accounted with the owner or agent for all the ashes delivered to his care as the law directs," and "that he had not by himself, or any other person or persons in his employ, made out any invoice, weigh-note, or bill of inspection of a later date than the time such ashes were duly inspected, and

that the same were emptied out of the cask or casks, and duly examined, at the date of every such invoice, weigh-note, or bill of inspection :” As I knew that if I had in one instance violated the law, I must perjure myself in taking it, I applied in writing, (on 25th and 26th July, 1828,) to my clerks, foreman, and cooper, (all in the employ of my opponents,) to ascertain from them whether they knew of one instance in which I had violated the duties of my office ; if so, I would deem it as a favour to make it known to me ; for as I would not sell the unclaimed property in my possession, (under “duplicate” bills, issued to “convenient friends,” to pay the fine of \$250, under the 177th statute, as others were doing,) I consequently would resign my commission, as I had no funds to pay the forfeiture for “neglect” alluded to, without aid of friends, which I did not think fit and proper to ask under existing circumstances.

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[No. 159.]

New-York, 28th July, 1828.

Dear Sir,

In answer to your letter of the 25th instant, I have no hesitation in saying that according to my knowledge and belief, you always strictly complied with the inspection law ; and that you need not scruple to take the oath prescribed in its full force and meaning. This I will testify at any time, and under any circumstances.

Yours, very respectfully,

(Signed)

N. CONKLING.

R. R. Henry, Esq.

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[No. 160.]

NEW-YORK, 18th AUGUST, 1828.

Dear Sir,

From all that I know during the three years that I was employed in your store as foreman and cooper, I fully believe that you always complied with the inspection law, and conscientiously fulfilled the duties of your office.

Yours with respect,

[Signed]

J. POWERS.

R. R. Henry, Esq.

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[No. 161.]

New-York, 23d October, 1828.

I was in Mr. R. R. Henry's employ from the first of May 1826, to the first of May 1828, except about six or eight weeks in December 1827 and January 1828, and in that time there never was a bbl. of ashes passed in Mr. H.'s office without emptying out the same, to the best of my knowledge and belief, and that bills and brands were never altered without a strict compliance with the inspection law.

[Signed]

C. V. V. LEONARD.

As I found the coloured man, Isaac, rather fearful that it might give offence to his employer, Mr. Inspector Snow, I did not urge him to give a written certificate, as he assured me he would swear to what Mr. Conkling certified (with whom he served) whenever I found it necessary.

I took a pretty bold stand, by appealing to persons in the employ of my very enemies, one of whom intimidated to me, if he knew of the least deviation he would have refused me the certificate; but as he did not, he was constrained to give it.

I shall conclude with the concluding words of the suppressed part of my report of 24th January last:

"The evidence that my allegations are true, will be exemplified in the attempts that will be made to smother inquiry into their truth or falsity, although the charges so deeply affect character both public and private."

I am, sir, very respectfully, in haste,

Your most obedient servant.

(Signed)

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

His Excellency Governor Throop, Albany.

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[NOTE.]

If your Excellency will turn to pages 19, 20, 21, 22, and 23, you will find

Five specific charges against the Comptroller:

One specific charge against the Attorney General:

Two specific charges against the Clerk of the Senate:

Two specific charges against the Clerk of the Assembly.

Referring, for proofs, to the documents (by date, &c.) in their own offices, by which they stand "self-convicted."

I have no doubt, in my own mind, that if the legislature order an inquiry, that corruption may be brought home to some of the parties, for it is not to be supposed that such men would do such highly illegal acts as have been done without some kind of compensation. The charges are marked thus [+].

The fraudulent returns of inspectors under the 185th section, I have marked [X], including myself, in case the Clerk of the Assembly can produce the report from me, (which he has entered on their journals) with the "emoluments" (derived from my office) omitted, and ending, "All which is respectfully submitted, by R. R. Henry." But that he cannot do, and therefore has committed a fraud on me and the public.

Who, sir, will have the confidence they have had in the journals, when the deceptive nature of the entries made by the procurement of the chairmen of the joint and special committees, (and their coadjutors) on the 4th and 6th February last, but especially on the 6th and 7th April last, are known? Which latter entries are exposed in the imprudent letter, written by the Hon. Mr. Johnson to his friend Col. Stone, which I would not venture to make, was it possible to "yazoo" all the Commercial Advertisers of the 7th April last, to a file of which I now refer you, and to Noah's Enquirer of 15th April, in which he says the Colonel's "Albany Correspondent" is the Hon. Mr. Johnson, without which authority I would not state it as a fact, as it is scarcely to be credited that after getting the clerks to make the deceptive entries relative to my memorial, he should deliberately sit down and expose the Clerks and Speaker, as it will appear from the journals the important letter of 9th February last was withheld from the Houses by him,



provided always that Mr. Johnson delivered it (with the memorial) enclosed open to him.

R. R. HENRY,  
Inspector of Pot and Pearl Ashes.

His Excellency Governor Throop.

The following notes were written on the margin of the preceding document, explaining each paragraph, and the page now given, refers to their place in this pamphlet.

*Page 44.* No mention is made of this letter by the speaker or the clerks in the journals 960 and 413, nor by the Hon. Mr. Johnson in his disclosures of the real contents of the memorial to his friend col. Stone, at least the colonel does not mention it in his paper of 7th April last. Why the letter &c. were suppressed, should be a subject of legislative inquiry. See journals 960 and 413.

*Page 45.* To the Hon. Mr. Johnson covering the letter to the speaker, enclosing memorial open for his perusal and delivery.—It was withheld from the assembly from 27th February till the 6th April, see journal 960 ; by somebody was smuggled through the house, sent to the senate, and was suppressed by the committee on the judiciary. See journals 413, &c.

*Page 47.* I have minutely examined the journals of the senate, and find that the "committee on manufactures," to whom my report was referred on the 4th February last, 153 ; and the "committee on the judiciary," to whom my memorial (supplementary to the report, and mentioned as such in the suppressed part of it,) have both withheld their reports on their merits. Was there ever more unfair management in any public body ? See the deceptive entries on the journals of the senate, 153 and 413, and of the assembly, 389, 398, and 960, rendered necessary by those made in the senate.

*Page 49.* Underrated. Mr. Brower, I understand, has \$600, and the contingent charges are more.

*Page 51.* Mr. "William Dumont called on Mr. Henry for the purpose of borrowing his brand of 1827 to affix to some casks of P. ashes stored with Mr. James Brown, which he said were inspected some time in Dec. 1826. He says he acts upon the principle that ashes inspected in cold weather will not deteriorate, and that the mere alteration of the brands from one year to another does not deceive the purchaser, but rather advances his interests in the shipment and sale abroad. The principle assumed by Mr. D. was considered erroneous by Mr. Henry on the ground that the alteration even for a day, in a moral point of view, was as bad as for three months." April 13, 1827. (Signed) C. V. V. LEONARD.

*Page 52.* Shewing fraudulent sale and conversion of "trust ashes," by Mr. inspector Snow's men, with his knowledge and consent under "duplicate" bills issued to foremen, &c.

*Page 52.* Shewing fraudulent omission of scrapings (on the copies of the bills from which they were taken) by major Samuel Cooper, proving the necessity and propriety of authorising absentees who have reason to suppose they have been cheated, to call for certified copies of copies on oath.

*Page 53.* "A document" received from the then ex-inspector Isaac Bogart, on the 11th April, 1827. "Abraham Hilton says that there were some ashes carried to C. Villie's commission store, from Lent's store in Stone street, and that they were all seconds and thirds, and that he dubbed

off all the barrels by order of C. Sherry, which barrels were afterwards sent to Snow, White, & Brower's store, and they were passed as first sort ashes.

(Signed)

RICHARD FARRELL.

New-York, 24th December, 1806.

P. S. Nicholas Jeffries says that he saw the above A. Hilton shave the brands off the barrels "in the commission store of C. Villie."

NOTE. The oral testimony of James W. Lent, and John B. Thorpe, Esqrs. (Isaac H. Bogart and others,) will shew that such was the practice in 1806, and that it was the practice since then, can be made to appear; ashes as I have reason to believe, having been "Sherryed" as lately as 24th June last, if not since then.

Page 54. A document also received from Mr. Bogart on 11th April, 1827. "I cannot take an oath for any man." The observation was made last fall, and inquiry was made by capt. Page, what the red D was on the barrels for? The answer made by Mr. John Shumway, was, to take care of the scrapings. Capt. Page told Mr. Card of it—Mr. Card wanted to know the author. Capt. Page told Mr. Card he would tell him the author for a gallon of beer."

NOTE. I can make it appear by oral testimony, that when the inspector came to sign the bills, he asked the clerk "how he had made out his copies," and was told agreeably to order, (had omitted them on the copies) when the inspector remarked, "it was too bad to do so, but if he did not, he would lose his business."

NOTE. There should no longer be "clerk's copies," they should be made "inspector's copies" by requiring us to certify on the "*Back of the copy*," that they contained the entire weight of all the ashes which the casks contained, both fit and unfit for inspection, and if the owner or agent doubted the fact, that the inspector should be directed to verify the copies by oath.

Page 55.

Comptroller's office, Albany, January 8th, 1829.

Sir—"I understand that doubts exist in the minds of some of the inspectors of pot and pearl ashes, as to the statutes now in force, relative to their official duties. Chapter 17 of the Revised Statutes, "of the regulation of trade in certain cases," which went into operation on the 1st day of May last, contains most of the provisions relative to the inspection of ashes. These will be found in articles 3 and 12 of title 2d of this chapter. There is another law passed at the recent session of the legislature on the same subject, now in force. The 17th chapter has once been distributed to the several officers, to whose duties it has relation, and extensively published in a volume of Revised Statutes. All are, or can make themselves familiar with its provisions; but as the statute recently enacted has only to be published in the state paper, I shall therefore subjoin a copy to this letter and solicit from inspectors a compliance with its requirements. The last act went into operation on the day of its enactment.

I am with great respect, your obedient servant,

(Signed)

W. L. MARCY.

To Robert R. Henry, Esq.

Inspector of pot and pearl ashes, New-York."

Page 55. Circular. Comptroller's office, Albany, July 11, 1829.

Sir—The following law, passed at the last November session of the legislature, not having been circulated except in the ordinary manner of circulating the laws, I have thought proper to have copies sent to officers whose duties it importantly concerns, that they may not neglect its provisions from an ignorance of them. A careful attention to the provisions of the law will be important to inspectors and auctioneers, as the most rigid adherence to them will be required.

Very respectfully, your obedient servant,

(Signed)

SILAS WRIGHT, Jun.

*Page 58.* It evidently was the intention of the legislature in requiring yearly reports from inspectors of "provisions, produce or merchandise," of the quantity, quality, value, &c. of the articles inspected by them, (also separately the "fees" and "emoluments") that at every meeting they might have correct official information on those most important subjects, not only for their own immediate uses but for that of the future historian or statistical writer, who could derive all the information they could desire relative to our *staple* articles, in the most authentic and compressed shape from the journals of the houses, and save them all the time and trouble of making personal application to individual inspectors who might find it for their interest to withhold correct information as to quality, &c. but particularly as to "fees" and "emoluments" from "contingent remainders," alias "droits," as such minutia might lead the legislature to curtail them in their income; consequently, every inspector (but one) chose to run the risk of paying the fine of two hundred dollars, rather than let the legislature know their income from the "offs and ends" of beef, pork, sample flour, scrapings, unclaimed ashes, fish, oil, &c. &c.

*Page 60.* Extracts from a letter from the hon. James McCall, dated Rushford, August 26, 1828. "Your favour of the 30th ult. has come to hand, and as usual I am glad to hear that some person in your station takes an interest in the inspection of ashes, so important an article for exportation. I have looked at the 174th, 175th, and 176th section of the Revised Statute, chapter 17, of which you speak, and cannot understand them as you do, neither the 177th, which was (if I mistake not,) drawn by Mr. Spencer, one of the revisers and senator, and the three first mentioned were drawn from your suggestions to me; and I do not presume the penalty in the 177th, will excuse you inspectors from doing your duty. It is like all other fines; every officer is liable for each neglect of duty to the individual sustaining damage, and guilty of a misdemeanor for the violation of the law in relation to the duties of their offices, and nearly all the alterations, (he should have said except in the 76th section!!!!) were in your suggestions. I shall send in a petition for the alteration in the size of barrels at the extra session, and if any other alterations are necessary, it would be well to attend to it at the same time; and should your fears be realized in relation to the 177th section, I will be ready to use my influence for its repeal. I make it a point to send you my ashes for inspection, and am in hopes you will be appointed the inspector for the city of New-York, as there is only one to be appointed, &c." You will find, Sir, the copies of letters to and from Mr. McCall entire, in the hands of Messrs. Spencer & Butler, and the joint committee, and the originals in my hands and Mr. McCall's, in case a legislative investigation takes place.

*Page 62.* Certificate.—I certify, that from my books, it appears 65 casks of potashes were stored with me in No. 31 Washington street, on 28th November 1826, which belonged to Mr. Wm. Dumont, or were stored by him, which ashes were never inspected while in my possession, but were delivered some time in April 1827, as the books of inspection and receipts will show. (Signed) JAMES BROWN.

*Page 62.* Extract from a letter from John V. Henry, Esq. dated Albany, 19th June, 1829. "I have received your letter of 12th inst., but that of the 3d to which you refer, has never been delivered. I have been out of town until this day, or I should have given you the assurance that I now do with utmost readiness, that I will become a petitioner for your discharge under the two-third act, (which is certainly the most expedient discharge) for whatever monies you may be indebted to me, (and the monies I have paid to Judge Yates as your surety) with interest." (So that my letter of the 3d June, apprising him of my situation was intercepted, and I lay in jail in consequence, until Henry Wilkes, Esq. was apprised of my situa-



tion; what think you of that, Sir?) the amount, \$9250 62 was subscribed for by my brother, just previous to his sudden decease.

*Page 63.* From the Morning Courier of Saturday, 11th August, 1827. "The letters of Mr. Henry, already published, have, we find, attracted the notice of the dealers in ashes, more particularly on the subject of scrapings. That the importance of this part of the ashes in a pecuniary view may be seen, we give a statement furnished by Mr. Henry; the great length of the calculations prevent us from inserting them in full, but we observe that from 4231 casks weighing 19025 0 9 there was taken 585 0 21 scrapings, (equal to 3 1-11 per cent. or 15½ lb. per cask) or 65541 lb. at 3½ cts. \$2293 63, an amount exceeding the inspection fees on the whole quantity." Refer to the Courier for the other calculations and the rest of the editor's remarks, and my circular of 22d September 1826 entire, which contains "secrets worth knowing."

*Page 64.* See my letter to the comptroller of the 18th June last, for some very interesting particulars on this subject, which the legislature should know.

*Page 64.* Return to the requisition of Wm. & John James for certified copies 12th March 1829, which I have reason to believe has been suppressed, as they will not give the name of the real owner.

*Page 65.* NOTE.—Instead of a compliance with my request, a verbal answer was given to the "bearer," which he certifies in writing as follows: "Mr. James said in answer to the letter, that the papers were mislaid and he could not find them, and further, that he knew nothing of the gentleman, and knew not where he lived, but if Mr. Henry would come down to the store, he would tell him about them, and why they were renewed." (Signed) JOHN CHADWICK.

New-York, 16th March, 1829.

*Page 66.* You will find by a letter of 22d and 23d October, 1828, and 18th June, 1829, to the Comptroller, that I offered to secure to the state from 30 to 50,000 dollars for the people's right to the "unclaimed property," held or placed directly or indirectly in abeyance.

*Page 67.* Consequences of nominating and appointing an inspector general and withholding this communication from the legislature.

*Page 71, &c.* Extracts from letter to President Jackson, dated 1st July, 1829. "In the letter to lieutenant governor Pitcher, of 11th November, 1828, I alluded to one written to your excellency on 15th December, 1823, with the approbation of governor Clinton, but Mr. Clinton did not think you would, under your then existing circumstances, act, as sinister motives might and would be imputed to you. In my letter to Mr. Pitcher I mention my intention of addressing you when seated in the presidential chair, (which I took it for granted would follow almost as a matter of course,) when it would become your duty to act as the "Executive." Without Secretary Van Buren has seen the original letter (and enclosures,) to lieutenant governor Pitcher, on the executive files, which I much doubt, (as they have also got into the habit in Albany, of suppressing documents when they contain disagreeable matter. See the proceedings of the Senate and Assembly on 4th April, 30th October and 4th November, 1828, and 4th and 9th February, and 6th April last,) the letter will be news to him and also to my brother, John V. Henry, Esq. neither of whom have the most distant conception that every act of mine in relation to this subject, which has appeared in the public prints since 12th October, 1823, met with governor Clinton's marked approbation, who took the trouble minutely to examine all the documents in the case which he returned to me with the following note: "Mr. Clinton's compliments to Mr. Henry, and returns the documents which he has read with all the interest which such important developments will naturally inspire." October 12th, 1823. "Having the deliberate opinion of such a man as De Witt Clinton that I was

right, I cared not if all the world (who had not seen the documents,) said I was wrong." "The fraud of the collector of St. Marys, which stood most prominent in governor Clinton's estimation, (on account of its practical and immoral effects,) was the absolute conversion of Bilbo & Haven's bond, for \$1538,12, (given for duties,) by the collector on 10th July, 1815, (who transferred it to the surety on the bond,) William Gibson, Esq. in part payment of negroes; which fact Mr. Gibson testifies to before the government agent, Mr. Habersham, in March 1822, and, (I am told,) repeats it on his second examination at St. Marys in November and December 1823, consequently the governor was of opinion, (provided the president and secretary had no doubts of Mr. Gibson's veracity,) that the collector should be instantly removed, even if innocent of every other charge, as I held Secretary Crawford's written stipulation of 10th November, 1821, that one or any one of the charges proven would be sufficient, and that the collector had admitted one relative to the negro inspectors, was stated by the district attorney, Mr. Habersham, to be a fact, in addition to which the secretary has admitted in his letter of 10th November, 1821, that upwards of six years after the use of the bond it was unpaid." "The mere use of Bilbo's bond, satisfactorily proven, David Gelston, Esq. (the former collector of this port,) said should have caused collector Clark's removal, even if the principal and interest were found to be paid in, but emphatically so when absolutely converted, which I risk nothing in saying it has been, and so will be found, if inquiry is made at the treasury." "In either case, (use or conversion,) I take it for granted your excellency will order a supercedias to be issued, and not allow the collector the honor of resigning." "If Mr. Bilbo's evidence has not been taken, it can (if deemed necessary,) be obtained, as he is living at Savannah; but Mr. Havens, I am sorry to say, died some time ago, (on the Ohio, I think,) on his way from New Orleans, otherwise I would forward you his affidavit. He told me verbally the bond was given by their house for duties." "The landing of Admiral Cockburn at St. Marys in January, 1815, was a cover for every thing; for only to aver that Cockburn and his myrmidons have taken the property, settled many a public and private account. The fortuitous circumstance of John Bessent's murder five months afterwards, showed to the persons present when the body was found, that between 20 and 30,000 dollars of the public property had been withheld by the administrators on the settlement of 7th January, 1815. Has it been accounted for?—when?—by whom? &c. are very important inquiries. One thing is certain, that Bilbo's bonds, (one of those found with the body,) has not, and the inference is a fair one, that the residue has not. Perhaps they may be able to tell at the treasury without the aid of the documents in my hands; but I doubt the fact very much, as secretary Crawford, in his letter of 10th November, 1821, admits that it was a matter of total uncertainty what bonds collector Clark had received from the administrators. What a field was opened to him safely to substitute bad bonds for good ones, &c." "In that respect Osborne's list would be of great importance to the treasury as a check on Clark and Crews." "It would gratify me much, sir, if you would order copies of the testimony to be forwarded to me, as I have a curiosity to know what was sworn to, (on the second examination particularly,) and all I can offer in return, being poor, is the list of bonds, &c. (obtained from Clark's agent,) which, by the by, are important papers, and which the treasury should have in possession in order to adjust their accounts understandingly, not only with collector Clark but with Crews, the surviving administrator of Bessent, relative to bonds, treasury notes, bank paper, &c. which the administrator and collector "Remembered to forget" to account to the treasury, as found with the murdered body of the junior Bessent, on the 11th June, 1815, the particulars of which will be found in

my letters to the secretary of the treasury, dated 4th and 16th January, 1823, delivered by the honorable John D. Dickinson."

Extracts from my letter to President Jackson, dated 29th October, 1829. "The case of the collector of St. Marys, and the inspectors here, on principle is precisely the same. The collector used and converted the public property in the shape of custom house bonds, &c. to private uses. The inspectors here in the shape of ashes, (fit and unfit for inspection,) the "offs and ends" of beef, pork, flour, meal, fish, &c." "This, sir, is an important question which I have been (here at St. Marys and Washington,) contesting on principle, and I am persuaded neither the Executives of the general or state governments will blame me for taking every honorable step to get legislative decisions, whether collectors or inspectors, after having not only used, but absolutely converted the public property to private uses, should be allowed, not only to retain office, but the proceeds," (and I might have added by "undue influence," in both places.) "My policy, (since June last,) has been to get into your Excellency's hands and that of the Executive powers of this state, all the documents in relation to the frauds, suppressions, &c. at St. Marys, Washington, New-York and Albany, so that when I go personally I may have little or nothing to do when there, but to apply to the respective legislatures by memorial and to refer to the Executive files for the proofs." (Note—I put the Comptroller completely "off his guard" by the letter of 18th June last, as I did the president on the 2d July last, to whom I say, "If however you Conscientiously think the practices of collector Clark and his abettors have not been illegal and only immoral, I of course must acquiesce and suppose I have been under a delusion. I have fairly "out generalled," all my opponents both at Washington and Albany.")

As the journals cannot be "yazood" they will bear me out at Albany, as I tell the president certain documents, which were put into my hands on 14th June, 1824, will at Washington. I seek no office, consequently as I have my opponents on the "hip," I will handle them "without gloves," as "half way measures" when principle is at issue, I have found from experience to be the worst that can be pursued, consequently I tell the president, (in my letter of 29th October last,) "I am determined before I die, (life and health granted me by a good providence,) to have a perusal of the suppressed testimony taken by Mr. Habersham, in 1822 and 1823, with the letters, &c. which have uniformly been refused me (by Messrs. Monroe, Crawford and Adams,) because as matters and things are now situated the removal of the collector of St. Marys, and the inspectors here will not fully satisfy me, as the question should be settled legislatively whether the Executive powers should continue the persons in office of high trust after the fact is brought home to their personal knowledge (by undoubted testimony) that they had "*abused their trusts*," not only by the use, but the absolute conversion of the public property to private uses, which has frequently been done by the collector of St. Marys and the inspectors (of provisions, produce and merchandise,) in New-York and Albany, and when it will appear that in both places I have been sacrificing my interest to my principles. The eclat of bringing both Executives up to the "ring bolt" (unaided and unassisted) almost simultaneously on the same principles, will be another inducement to act, as "sinister motives" cannot well be imputed to me when "I offend the powers that be," ask for nothing but common justice, and act in defence of character, which has been grossly vilified and abused for years past."

"I had, sir, a high compliment paid me by a person on whose judgment I place great reliance, who has said I had displayed a great deal of art but no artifice (or in other words, had had the art to conceal my art) in the management of the St. Marys, Washington, and Albany business; for that it appeared I had uniformly told my opponents what I *would do*, and if they



suffered eventually from not believing me, it was their own faults; for supposing such an open enemy was not to be regarded, they one and all laid common prudence totally aside by putting the means for their own conviction on record, both at St. Mary's, Washington, New-York, and Albany, which saves me all the trouble of seeking for evidence: witness the acts of the clerks and Mr. Johnson, who should have burnt the memorial when he got possession of it, instead of sending it to the *Judiciary Committee* of the senate. The comptroller and attorney general may yet save their "*Bacon*" by complying with the requirements of the 177th and 186th sections; but Mr. Bacon of the senate will with difficulty save his "*Bacon*" if I choose to push the "affair," which I regret he has involved himself in, as I have a respect for him and Mr. Sager, but for Mr. Hart and Mr. Johnson who "lead them astray" from the line of official duty, they should be exposed. "Trifling events, sir, you see may lead to "important results."

"This communication will be particularly interesting to secretary Van Buren, as so many of his *political* friends are implicated in the "affair."

Page 78. Sir,

Agreeably to your request, I hereby certify on one occasion Mr. \_\_\_\_\_ came to your office for some inspection bills, and on giving him, amongst others, a small bill for scrapings, he asked you why you did not keep such small parcels, as Mr. Snow did, until they filled a barrel, and then render a bill, as it was troublesome to make account of sales of such small parcels. Yours respectfully,

[Signed]

N. CONKLING.

New-York, 18th September, 1829.

Page 79. I hereby certify that in the summer of 1825, Mr. William Dumont came to Mr. R. R. Henry's inspection office, and in conversation with him and me, he said he was in the habit of rendering bills for scrapings without making the entry of the weigh-note copy required by law. I do not recollect the reason he gave for the omission.

(Signed)

N. CONKLING.

New-York, 14th Novem. 1829.

Page 80. Corruption suggested against the comptroller, attorney general, clerks, &c.

Page 80. Imprudent letter from the hon. Mr. Johnson to Col. Stone, published in the Commercial Advertiser of 7th April, 1829.

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[SUPPRESSED.]

*To His Excellency Governor Throop.*

NEW-YORK, 1st JANUARY, 1830.

Sir,

I send your Excellency, herewith, (officially) "A communication, dated 31st December 1829, relative to illegal practices in some, and corrupt practices in other offices of the government, referring to documents in their own offices, by date, &c. for positive proofs of my allegations, and to other documents on the executive and legislative files, and in the hands of individuals named, for other direct and collateral evidence of the substantial truth of the facts," to which I beg leave to draw your particular attention; all which, with the extracts from the *Morning Courier*, (and notes) herewith, show conclusively the absolute necessity of amendments to the 17th

Chapter of the Revised Statute, (which may with propriety be called the "17th chapter of blunders") to protect the absentee both at home and abroad, many of which sections would have been amended in the sessions of 1823 and 1829, had the members "not in the secret" been aware of the contents of my memorials of the 3d April and 8th October 1823, suppressed, the parts of my report (forwarded 24th and 31st January last) referred to the committee on manufactures and the special committee, but especially to the memorial supplementary to the report, (and mentioned as such in the reports and letter to the Speaker of 9th February, also suppressed) which memorial was sent by the Assembly to the Senate on the 6th April, and was by them referred to the committee on the judiciary, which report, memorial, and letter were suppressed by their respective committees, as the journals of the Senate and Assembly will conclusively show.

I take it for granted your excellency will, from a sense of "constitutional duty," make the contents of this communication known to the legislature, under which impression I shall withhold the memorial and affidavit (alluded to) relative to the Clerks, as both the Houses (from a sense of justice to them, the public, and myself) will then be bound in "duty, honour, and conscience," to ascertain promptly, whether "spurious reports" and other deceptive entries had been made on their journals on the 4th and 6th February, and 6th and 7th April last, the truth or falsity of which allegations can be instantly settled merely by calling for the reports and memorial, and collating them with the "journal entries" made by the Clerks.

The Hon. Mr. Johnson's letter of 6th April last, to his friend Colonel Stone, (an extract from which the Colonel was so obliging as to give me, and which I stand ready to produce) will throw much light on this "mysterious" subject. It may be found in the Commercial Advertiser of the 7th April last, a file of which, no doubt, can be found in Albany.

I am very respectfully, Sir,

Your most obedient servant,

(Signed)

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

Forwarded 2d January 1830, per P. G. Hildreth, Esq.

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[SUPPRESSED.]

*The Hon. Silas Wright, jun. Comptroller, Albany.*

NEW-YORK, January 5, 1830.

Sir,

I transmit you herewith the affidavit required by my 176th section, introduced with the 174th and 175th sections into the "general provisions" of the Revised Statutes, chapter 17, by the Hon. James M'Call as a substitute for the section I requested him (by letter of 16th October, 1827) to have introduced into the revised laws, which Mr. M'Call deemed a sufficient compliance with my wishes, it being made to operate retrospectively by the words, "That there have been, &c." Copies of my letters either to or from Mr. M'Call, you will find, sir, in the hands of the Hon. Truman Hart, and of Messrs. Spencer, Butler, Broughton, Maynard and Hayden, to which I refer for particulars.

The following is the paragraph alluded to in my letter, on which the 175th section was predicated (as were other amendments) which will appear from his letters of 27th October, 1827, and 26th August, 1828.

"I wish, sir, on behalf of your constituents, many of whom have unknowingly been sufferers, to draw your attention to the clause which I wish to have added to the inspection law, calling upon me and the other inspectors (by a day to be fixed) to make a return to the comptroller, on oath, of all ashes which for thirty consecutive years past, have been directly or indirectly withheld from the absentee, both fit and unfit for inspection, stored for inspection and otherwise, (which includes scrapings, pickings, and fine ashes, as I am desirous to ascertain the power of conscience in certain cases in which scrapings have been withheld from your immediate constituents, (and others who can be named) and of which, at the present, they are ignorant of."

I was, sir, satisfied with the 174th 175th, and 176th sections, (the words "one year or more" being inserted in the 175th) until the 23d July, 1828, when I jocosely asked Mr. Inspector Remsen, how he would be able to swallow M'Call's bolus, No. 175, or the pills No. 176, when the fool let the "cat out of the bag" by intimating, that a friend in the legislature had got inspectors the privilege to commute for the returns (under sections 171, 174, 175, or 176) on the payment of a forfeiture for "neglect" of \$250, under the 177th section no report made under the 171st, rendering the transmission of "duplicates" under the 174th impossible; (of course the all important 175th section would be a nullity, when it was optional to take the oath 176, or suffer the forfeiture for "neglect" (which the proceeds of 12 casks would pay) consequently the Inspector Snow and others, were selling off their "stock" of unclaimed ashes fit and unfit for inspection; and so he was, or would do also.

On further investigation, I found that it was actually the fact, that Mr. Snow had sold, through Mr. broker Van Wyck, and his foreman, Wright (and others I can name); and some time afterwards, I ascertained that Mr. Remsen had also sold of his "stock," through his clerk, Mr. Nath. Conkling, to Cornell & Cooper, G. Merle, &c.

The amendments which I had made to Hart's 6th and 11 sections (act 14th November, 1823) through the Hon. Benj. F. Butler, I apprised your predecessor of, on the 1st and 13th of January last, and yourself on the 21st January, 30th May, and 18th June last, by letters and affidavits, for particulars of which I must beg leave to refer specially, and to my letter to Mr. Butler of 11th September, 1823, in which I give him my reasons why the penalty of the 177th section should be increased to two thousand five hundred, or three thousand dollars, or forfeiture of office.

That gentleman (Mr. Butler) never did a wiser act in his life than in making the amendments alluded to; and it was a providential thing for the public and myself that I thought of him, as the joint committee (generally) had rejected all my amendments on the plausible ground, that the malpractices complained of were not "evasions but palpable violations of the statute." See report on the journals of the senate, 1823, page 65.

Having been so long absent from Albany, I was unacquainted with the superior merits and talents of Mr. Butler, until September last, when I happened to express my surprise to my brother, (the late John V. Henry) that so young a man as Mr. Butler should be his only associate in the great "will cause," when he told me, his clients could not well have made a wiser selection.

Should I get into a "scrape" in consequence of a communication made under date of 31st ult. to the governor, this "broad hint" from my brother, will show me where to look for "law advice," although I must confess for framing amendments to a potash law, I would prefer the "advice" of more practical men than Mr. Butler, or his equally "law learned" associates.

I am, sir, your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes



NOTE.—I have come across a copy of my letter to Mr. M'Call, of 16th October, and his reply of 27th October, 1827, to which I have subjoined a copy of his letter of the 10th October, 1827, which I send for your information.

I wish to draw your particular attention to the returns which have been, and which may be made under M'Call's (alias Henry's) 176th sect., which every inspector of "provisions, produce, and merchandise" throughout the state, must from necessity make this year (as well as myself) no one of us having made reports the "preceding year" under the 171st section to "any auctioneer."

I have reason to believe there will be some variations from the words of the statute, as "That there have been no articles," &c. is rather a puzzle to some of my coadjutors, who have been "dabbling" with "unclaimed property" under "duplicate" bills, the proceeds of which are held directly or indirectly in abeyance. See my letters to your predecessor of 22d and 23d Oct. 1828, and 1st and 13th January last, and to yourself of 21st January and 30th May last, but specially that of the 18th June last; but perhaps the proceeds may have been paid into the treasury by inspectors Boggart, Snow, Cooper, and others, on your requisitions made since the date of my last.

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[ENCLOSED.]

City of New-York, ss.

Personally appeared before me, Robert R. Henry, Inspector of Pot and Pearl Ashes for the city of New-York, who being duly sworn, deposes and says,

That by the 17th chapter of the Revised Statutes, title 2, article 12, section 176, "General Provisions," it is enacted,

"If no such bill or invoice shall have been delivered to any auctioneer during the preceding year, by any such inspector, he shall notwithstanding transmit to the comptroller on the first day of January, in each year, an affidavit, stating that there have been no articles subject to inspection stored with him which have remained not claimed by the owners within one year from the time they shall have been inspected."

And this deponent further testifies and says, that having delivered no invoice or bill to any auctioneer the "preceding year," he does in conformity with the requirements of the statute declare,

That there have been no articles subject to inspection stored with him which have remained not claimed by the owner within one year from the time they shall have been inspected. And further this deponent saith not.

(signed) R. R. HENRY.

Sworn the 5th of January before me

J. Hammond, Assistant Justice.

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*To the Hon. Francis Granger.*

NEW-YORK, 13th JANUARY, 1830.

Sir,

The affidavit you have herewith, was begun under the impression that my old acquaintance, Silas Wood, Esq. would have been elected to the

Senate: and when apprised of the defects in the Revised Statute, Chapter 17, and the "illegal" means made use of to prevent amendments, he would no doubt have applied prompt corrections, had he been elected. Since then it has been laid aside, as I know no person in the Houses sufficiently independent to act in the business against such powerful opponents.

I have, since the receipt of the Governor's message, added to it all after the words "Hints for additional amendments," with a view of sending it to my family and friends in Georgia, as a "clew" to the last paragraph in the message, showing that if "lobby" influence was on the decrease, that "back stairs" influence had "increased, was increasing, and ought to be diminished."

On reflection it occurred to me, that the draft would answer all the purposes for my children, and to send the fair copy to you, sir, that in case death should remove me suddenly, (as he did my brother, John V. Henry) or other casualties should accrue to prevent my attending personally at Albany, you might have a manual in your hand, (from a practical man) showing what a "worthless thing" the 17th Chapter of the Revised Statutes (which I call the chapter of blunders) is, when from a sense of duty to your constituents, (who are deeply interested) you will have the errors in it remedied; for, without the aid of an efficient person, my individual exertions will, as heretofore, be counteracted by "back stairs" or "undue influence." See my letter on that subject to the "special committee," herewith.

My situation at the present juncture (and that of all the other inspectors) will exemplify the fact, that the Revised Statute is a "worthless thing." Either legally or illegally I got rid of all the unclaimed ashes in my possession in 1828; so that I have had no report to make in 1829 to "any auctioneer," under the 171st section: of course, I had no "duplicates" to transmit to the Comptroller, under the 174th section, the "preceding year;" and as the filing of the all-important 175th section is made to depend on that contingency, I give the oath the "go-by," and in order to escape the penalty of the 177th section, (6th and 11th of Hart's law) I have transmitted the affidavit required by the 176th section to the comptroller, (a copy of which and the letter I send herewith) so that if I have been in the habit of violating the duties enjoined positively (and prohibited negatively) in the 175th section, yet I go "scot free," and could in this way, from year to year, avoid filing that oath, No. 175, as long as the legislature allow the inspectors power to issue "duplicates" under the "discretionary" power without limitation, a power which Gov. Van Buren justly remarks cannot be entrusted to any one without danger of abuse.

By the by, sir, there can be little doubt that the Governor's message relative to "discretionary power" was predicated on my letter and affidavit of 1st January 1829; and there is a probability that what Governor Throop says relative to "lobby" influence, (in his last paragraph) was by way of "set-off" to what I say of its existence, in my letters of 31st ult. and 1st instant (forwarded per P. G. Heldreth, Esq.) in my charges against the clerks, comptroller, and attorney general, which you will find marked on the margin, (of the document herewith) "specific charges," which if you read in connexion with the affidavit and letter to the attorney general, of 7th February last, I am inclined to think you will say that men in their situations, who will tamely submit to such charges, should not be allowed to fill such important and highly confidential stations, and because documents in their own offices are referred to in proof of the charges.

The 175th section out of the question, with the "sad mistakes" in the 76th section (made by recommendation of the revisers in their 85th section) unrepealed, with unsigned copies, what do the inspector and his men want more? Nothing. For we can do as we please, the 171st and 176th sections remaining as they now are leaving us the sole judges as to title, with

the power to issue "duplicates" to whom we please. Should unlimited powers be entrusted to us one moment longer?

I beg leave to draw your particular attention to the requisition of Messrs. Wm. & John James, for certified copies. Only give the absentee the power (whenever he thinks he has been cheated out of his scrapings) peremptorily to demand that we should verify the copies (that have been issued signed or unsigned) by signature and oath, and they will be comparatively safe in future, with this "rod of correction" over us. See Conkling's letter in mine to Governor Throop, for other particulars, and the important amendments to the 64th and 176th sections (to protect the rights of individuals and the state) towards the close of the affidavit.

Without the governor should lay my communications of the 31st ult. and 1st instant, before the legislature, and they raise a committee with power to send for persons and papers, I cannot go to Albany until February, and consequently the absentee will continue to suffer under the 17th chapter of "blunders." If, however, I find you country gentlemen are content with the law, imperfect as it is, I should be; particularly if I conclude to join my children in Georgia; because, then the "journal entries" rectified, my individual purposes would be answered.

Your constituents and friends in Ohio, &c. being so directly interested in this affair, will, I trust, plead my excuse for the liberty I have taken in addressing you. I am, in haste, very respectfully, sir,

Your most obedient servant,

(Signed)

R. R. HENRY.

Inspector of Pot and Pearl Ashes.

Hon. Francis Granger,

In Assembly, Albany.

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Note.—I wish you to draw your particular attention to the extracts from a letter, dated 12th June last, to my brother John V. Henry, Esq. of Albany, which you will find in my communication of the 31st ult. to the governor, because every "man, woman, and child" in the state is interested in every question relating to the accuracy of weights and measures; and because since the 1st instant, on or about 200 casks of Albany inspected ashes, unbranded, contrary to the 64th section, and with private marks in lieu of the brands prescribed by law, have been inspected in Bogart's office, (and some in Snow's marked A,) which is prima facie evidence of "Constructive, Legal, and Moral fraud." The ashes belonged to Messrs. W. Durant and Co. Mr. Bogart being in Albany, I appeal to him whether a single cask, (out of the great quantity of Albany inspected ashes) received by him last season, was branded, and that if he and his foreman, Isaac Heddy, did not designate the qualities, &c. from them as quickly from the private marks, as I could have done if branded?

Concealment of inspectors' names, places of inspection, quality, &c. what can all this mean? For an explanation, refer to the letters to the governor of the 31st ult. and 1st instant, and to the comptroller of 18th June last; but especially to the documents accompanying it, dated 11th Novem. 1826, 29th Oct., 1st and 3d Novem., 1828, and others referred to in them,) which will disclose "secrets worth knowing."

On the subject of omission of brands and substitution of private marks, I say to governor Clinton, in my letter of 29th September, 1827, "The fact is, I find myself bound in "duty, honour, and conscience," to put a



stop to the omission of brands in Albany inspection offices, because some 16 or 18 years ago, I gave a sanction to the practice in the case of Mr. W. Gillespie, of Herkimer county, (who is probably still living, and may recollect the circumstance,) but until I became an inspector, I had no idea of the evil consequences which had grown out of the illegal practice, combined with private marks."

The affidavit, (with the letter, &c. alluded to in it,) will be collateral evidence of that and other facts. Now is the time to put an end to all illegal practices, (by appropriate amendments,) or never. It is measures, and not men, I attack.

Signed,

R. R. HENRY,  
Inspector of Pot and Pearl Ashes.

Hon. F. Granger, Albany.

[Forwarded through Mr. Wheeler.]

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*To Wm. L. Marcy, Esq. Comptroller, Albany.*

[SUPPRESSED.]

Inspector's Office of Pot and Pearl Ashes,  
New-York, 22d October, 1828.

Sir,

In the "general provisions" of the Revised Statutes for the regulation of the inspection of "provisions, produce, and merchandise," passed 3d December, 1827, (and which went into operation on the 1st May last) you will find the following enactment :

"Section 177. Every inspector who shall neglect to make any report on affidavit required by either of the three preceding sections, shall forfeit two hundred and fifty dollars to the use of this state, and the comptroller shall direct the district attorney, where such inspector shall reside, to prosecute for the same."

Putting out of the question the motive for introducing the above section, which was to render the three sections in the "general provisions," No. 174, 175, and 176, introduced for me through the Hon. James M<sup>c</sup>Call (see copy of his letter, dated 26th August last, forwarded by me on the 11th ult. to the revisers, John C. Spencer, and Benj. F. Butler, Esqrs. ; and my letters to them explanatory of the business) a perfect "dead letter," I ask on general principles, was there ever a more mischievous section introduced into a law ? as it has a direct tendency to render inspectors, their clerks, foreman, and coopers, not only careless but dishonest, and will eventually lead to perjury as you will have striking instances of on the 1st Jan. next, if my oaths to protect absentees, No. 175 and 176 are taken, which the legislature however have benignly rendered unnecessary, provided we inspectors will (out of the "contingent fund" accruing from "unclaimed" ashes both fit and unfit for inspection) spare two hundred and fifty dollars as consideration money, which will then vest the property withheld from the owners and the state for "thirty consecutive years past" in us, as only three payments have been made into the treasury in that period, which I protest against as an inspector, and I protest against it as a merchant, (which I may be compelled again to become) as it places every absentee at the mercy, not only of an inspector, but of his clerks, foremen, coopers, and labourers, who all know that for the petty sum of two hundred and fifty dollars all their blunders made during the year, whether accidental or designed, can be covered with the petty sum above mentioned, and also give my oath No. 175 and 176 the "go by" to boot.

If the legislature will appoint me an inspector general of pot and pearl ashes (or of beef and pork, which I would prefer) and let the law stand exactly as it now is, they may strike out one third of the fees, and I will pay into the treasury for the lease to do as I please from one to two thousand dollars, and I will make money by it, "remembering to forget" to correct any errors or omissions made by me, my clerks, foreman, &c. when they happened not to be against me, as the oath No. 175 out of the question, I could act at discretion, having then, in fact, only Conscience for the regulator, which, too frequently "kicks the beam" when interest is in the question.

The impolicy of granting any inspector such a dangerous privilege as commuting with money for a dispensation from any positive duty, strikes me with surprise, having been an "eye witness" to the modes and manner of giving the laws the "go by." Having a spare copy of my letter to his excellency Governor Clinton, of 6th March, 1827, I forward it for your information, and for minute details of particulars refer to the executive files for my letters (with documents) dated 29th September, and 13th October, 1827.

To show you, sir, the absolute necessity of your immediate official interference to have the law amended, and to save the state from heavy costs which they otherwise will incur, I beg leave to give you a copy of section 174, to show you how by two legislative blunders in six lines, delinquent inspectors will escape. The person who drew it was a theorist, and undertook to deviate in his limitation from a "practical man's" using the "preceding year" instead of "thirty consecutive years," of which you will see the practical effects.

"Every inspector shall annually, on the first day of January, transmit, on oath, to the comptroller a duplicate of every invoice or bill of such articles, which during the preceding year may have been delivered to any auctioneer, and the amount received by him on the sales of such articles from any auctioneer."

Now, sir, on the 1st of January next, the only inspector in the state who can or will transmit to you "duplicates," accompanied with the oath required by the 175th section, is myself, and for the most substantial reason, every other inspector in the state having within the "thirty consecutive years past" withheld original bills and reports required by laws of 1813 and 1822 to auctioneers, and mean to withhold them (up to the 1st of January next) under section 171, Revised laws, (to take advantage of the legislative mistakes in the law) consequently you will have to report them as defaulters to district attorneys under the 177th section, without they take M'Call's (alias Henry's) oath, No. 176, which, if they do, one and all will be deep in guilt who have withheld from owners, auctioneers, and the public any return required by law (the 12th section of the act of February, 1813, and the sections 3, 5, and 17 of the act of 5th April, 1822); but happily for the defaulters (or delinquents) the legislature has released them from this "dire necessity" by agreeing to accept in lieu of oaths and reports two hundred and fifty dollars in money from each of them, consequently it will (on the first January) if paid, vest them, in fact, with the rights and property of unfortunate owners of unclaimed ashes, who by casualties, such as sudden death, fire, robbery, carelessness, &c. have lost or mislaid their original bills or receipts, or may not have taken any. Whether it is just or equitable, with the "stroke of a pen" comparatively to give away the property of others, without their consent, I will not undertake to say.

There are two ways, sir, of taking the oath, No. 176, and to avoid paying the penalty of the 177th section. On reading the laws of 1813, 1822, and 1827, I find that in all of them the legislature have neglected to say, the person "claiming or demanding" ashes should show "satisfactory evidence of title" by exhibiting their bills or receipts, consequently the laws

of 1813 and 1822 have been rendered a "dead letter," merely by any clerk foreman, cooper, or other "convenient friend" saying, 'I claim or demand the unclaimed ashes or the proceeds;' and further to cover the illegal transaction, actually to give receipts or acknowledgments for the ashes or the proceeds, and then the inspector could say they have been "claimed or demanded," which he could do with perfect safety, because no holder of a bill or receipt would ever think of calling in the first instance on the comptroller for his ashes or proceeds, but as a matter of course on the inspector, who by paying him the proceeds would smother inquiry; but should he even be dissatisfied at not receiving interest on the money the inspector could with propriety say to him, I was authorised by the law of 1813, to sell the ashes after they had been unclaimed for twenty-four months, giving two months notice in the public prints; but the law out of the question, common prudence forbade me looking on and seeing the ashes perishing in my hands, and not to prevent a total loss (by converting them into money) would have been inexcusable, and he might add, had I not reason to conclude, that some accident had prevented your calling once at least, in twenty-six months, to inquire into the condition of a perishable article, and the very circumstance of your not calling, shows at least, that you are devoid of common prudence and are not a careful man in your private affairs? Thus indirectly compelling the owner to be silent, if not content, and of course by these finesses the comptroller was kept ignorant for years past, that a single cask of ashes remained unclaimed, merely by the inspector's silence and withholding notices in the state paper, and others from the owners, keeping, of course, clerks, foremen, &c. in good humour by largesses in ashes, or the proceeds at the expense of the owners and the state; by the by, the largesses at times having been munificent in the extreme.

If you examine the 171st and 176th sections of the revised laws, you will find the legislature have in both been silent as to title, consequently all the inspector has to do if he wishes to save the two hundred and fifty dollars, is to get the "convenient friend" to "claim," and he can then swear, complying with the letter, but violating the spirit of the inspection law.

The inspectors and their partisans (all who have not returned unclaimed ashes, fit and unfit for inspection agreeably to the laws of 1813, and 1822) contend, that as these laws have expired, no inquiry can now legally be made into any acts of omission or commission done or suffered to be done up to the 30th April, 1828, which are buried in oblivion, and that they start anew on the 1st of May, under the revised laws, consequently on the 1st Jan. next, (although eight months only have elapsed) they will tender you the affidavit under the 176th section, that they have no ashes which "Have remained not claimed within one year from the time they shall have been inspected." Aware of the finesse or evasion (as you now are made officially) you will no doubt say "one year" in the 176th section carries you back to the 1st January, 1828, and the words "or more," in the 175th section to the period when you first came into office. The reply will be, that is not my construction of the law, and you may take your course. The legislature has given me the option to make returns or not, under the penalty of two hundred and fifty dollars, under the 177th section, that is all you can recover; I avoid the trouble of reporting, and I give Henry's 174th, 175th, and 176th sections the "go by," especially his positive and negative oath, No. 175, consequently the "contingent fund" accruing from "droits," held or placed directly or indirectly in abeyance, furnish ample "ways and means" to pay the forfeiture, and profit by laches of duty.

If the most important sections in the whole law, (introduced by me to protect the rights of absentees, and my own, should I become again a dealer in "provisions, produce, and merchandise,") can be thus defeated by finesse and management, both purchaser and seller are left at the mercy of the inspectors and deputies, (or servants) as the only security, I repeat,



which absentees have, is Conscience ; a very weak guarantee indeed when interest is in question, as I personally know, having been an eye-witness too frequently, since the 16th of August, 1824, of the fact ; and in attempting to check such practices, (deemed prescriptive from length of time and usage) I have rendered myself so unpopular, that the predictions made 7th, 8th, and 10th March, 1825, (see letter to the hon. C. D. Colden, of 29th March, 1825,) has become prophetic, viz : " That if I attempted further to run counter to the old inspectors' mode of doing business, as to scrapings, pickings, and fine ashes, I might remain an inspector, but without patronage ;" because, forsooth, the right to withhold the "unclaimed" ashes (both fit and unfit for inspection) from the absent owners and the state, and to distribute them as "largesses," to friends and dependants, &c. have become prescriptive, in fact, by length of time, and uninterrupted usage.

My question whether they had had the consent of the country owners, and of the comptroller, as sole trustee for the owners and their representatives, and the people of this state, to act as "sub-trustees," was very difficult to answer.

You will find, sir, in my memorials of 3d of April and 8th instant, and in my report of the 16th instant, (printed by order of the assembly,) under the 135th section, that I have requested the legislature to authorise you officially, or as Trustee, to ask me and other inspectors, how much of such ashes, (fit and unfit for inspection,) or the proceeds we hold directly or indirectly, in abeyance? and to make full disclosures to you on oath as trustee, and I will take the lead, and answer peremptorily and fully, and will account forthwith.

I am, however, told that the influence of inspectors of "provisions, produce, and merchandise," both in and out of the houses, will be too powerful for me. I have admitted the fact, and to their astonishment, have said that I will call in your official aid as comptroller, on behalf of the state, and as sole trustee of owners, &c. which would constrain you, from a sense of "duty, honor, and conscience," to make the business known to the legislature in your official capacity ; for if the other inspectors are permitted to retain the "unclaimed" ashes or the proceeds, (fit or unfit for inspection,) which they now hold directly or indirectly in abeyance, then the legislature should, in common justice, permit me to hold the unclaimed ashes, which I have still to report. I refer you for much information on this subject, to the editors of the Albany Argus, who published a part of my circular in September, 1826 ; but it will be necessary to read the whole to understand it properly.

I will now, sir, as some excuse for inspectors, proceed to show you and the public, that the legislature have by their unwise enactments, actually led the "old ones" into "temptation," whose example has also lead the "junior ones" to withhold returns required by law, of unclaimed ashes, (both fit and unfit for inspection,) as they have admitted they have on hand, ashes, or the proceeds of them, which I understand one of the "juniors" solemnly avers he will not make returns of until the old inspectors and ex-inspectors do so.

So much for their "bad precedents," for they say, (I being poor and unemployed,) I am no "precedent" at all, although they admit I act according to law, but say common usage is against me, which practice, if the legislature approve of, I wish to ascertain through you, sir.

Act, 25th February, 1813, section 12. "That whenever any pot or pearl ashes which now are or hereafter shall be stored with any inspector of pot and pearl ashes, for inspection or otherwise, and shall not be claimed or demanded by the owner or owners thereof, within two years from the time the same shall have been inspected, it shall be lawful for the inspector, at his discretion, to sell and dispose of the same at public auction, giving two months public notice in one of the newspapers printed in

the city of New-York, and the newspaper published by the printers of this state at Albany, describing as nearly as may be the marks on the barrels containing the pot and pearl ashes, and the proceeds of such sales, after deducting all costs and charges and expenses, and all claims of the said inspectors or otherwise, shall be paid into the treasury of this state, for the benefit of the owner; and he shall be entitled to receive the same on furnishing satisfactory proof of ownership to the comptroller."

One of three things is certain, either that the section was drawn by an inspector, and palmed on a member, or by a person deep in the secret practices of inspecting officers, or by a mere theorist, who knew nothing about the routine of the business. Look at the section and its practical effects.

1st. It shall be lawful for the inspector, at his discretion, to sell the ashes at public auction, consequently if he did not think it fit and proper to sell, he acted legally; and of course, to withhold the proceeds from the treasury. Note. To put them into his own pocket at private sale, and the comptroller not aware of it of course.

2d. He is only to advertise the ashes which now are or hereafter shall be stored with him for inspection or otherwise, and sell them at public auction.—Note. Having previously sold most of them at private sale, he had few if any to advertise.

3d. If claimed or demanded even by a person pretending to be the owner, was sufficient; and he might legally withhold the public notice, as the section does not say he is to furnish "satisfactory proof of ownership" to the auctioneer, &c. (by the production of bills or receipts, the only "legal" evidence of right) consequently a clerk, foreman, cooper, partner, or other "convenient friend" only "claiming or demanding," the letter of the law was complied with, and no public notice of sale need be given, as all the inspector had to do to cover every thing, was to take a receipt or voucher, from the "fictitious" owner, for the ashes or proceeds. The inspector ran no risk in doing this, for should the "real" owners ever appear with the bills or receipts, settle with them; and if none appeared, the ashes or the proceeds inured to the inspector, instead of escheating to the people of this state, as was undoubtedly the intention of the legislature.

4th. Not a word is said as to the proceeds of ashes which had previously to 1813 been sold, nor of scrapings not reported on the copies of absentees, consequently all vested in the inspector, until owners appeared, in propria persona. What remained on hand in 1814 of the "offs and ends" of ashes, were reported to Mr. Robert McMenomy out of the proceeds of which (between one and two hundred barrels,) only about \$230 was paid into the treasury, because the head marks were effaced by time and alkali.

No other payments were made into the treasury under this act (which expired in 1822,) although frequent sales were made by private agents. I could mention three sales or conversions to the amount of between four and five thousand dollars; but I leave each inspector to make such disclosures to the trustee as Conscience may dictate to him, as that is the only regulator, the "statute of limitations," and this act placing the owners and the state completely in subserviance to the "old" inspectors, the servant being literally in this case, the master.

There is one simple way of compelling the "old" inspectors and ex-inspectors to account, viz: for the legislature to say to any one who refuses and will take the advantage of lapse of time, and our mistakes, and will withhold property not their own, are not trust-worthy persons, and shall not be employed either directly or indirectly in the highly confidential office of an inspector of "provisions, produce, or merchandise," for the time to come. This would be perfectly just, and equitable, under existing circumstances.

5th. All claims of the inspector or otherwise, to be deducted from the proceeds. As the comptroller nor any other person was authorised to call an inspector to account, this was a sweep. He took all. "Lead us not into temptation," &c. If the law of 1822 had been as loosely worded, I do not know what would have been the consequence as to myself.

The moment that such a shrewd, intelligent, and "long headed" man as major Cooper cast his eye on the section, all its defects were apparent to him, and that he could act at discretion; of course he kept himself perfectly quiet—did not trouble auctioneers and printers—sold the ashes through the agency of his confidential clerks, brokers, &c. at private sale, and now holds the proceeds as "sub trustee" to the comptroller (without his knowledge or consent) either directly or indirectly in abeyance.

As to Mr. Robert Snow not being so "quick sighted" as major Cooper, he published I have reason to believe, one notice in a paper in this city, (but whether he did in the state paper is uncertain,) as ashes were actually sold under the hammer of Mr. McMenomy; but finding the head marks were effaced by time and alkali, on all but three casks (H. & W. and W. & S.,) he did not pay the proceeds into the treasury, as they must from necessity escheat to the state. To cover the transaction, a receipt it is said was taken from a "convenient friend;" but in what way he shewed the title I know not, as I have the original paper containing the weight, &c. in which ownership of only the above three casks are noticed. Frequent sales and conversions of ashes, both fit and unfit for inspection, were made both before and since the passage of the act of 1813, by private agents, but not a cent of the proceeds are in the treasury, being held or placed directly or indirectly in abeyance.

The ex-inspector, Isaac H. Bogart, made a small sale of the "offs and ends" of casks (which happened per chance to remain unsold) under Mr. McMenomy's hammer, which he actually (by mistake) paid to treasurer Platt in 1814, supposing his coadjutor in office had deposited the proceeds of his previous sales, but finding he was in error, he also withholds the proceeds of previous and subsequent sales as "sub trustee" to the comptroller, which "leaking out" before arbitrators (Gurdon S. Mumford, — Kearney and George Warner) was made known to the governor, and Mr. Hart then of the senate; in consequence of which, the law of 5th April 1822 was passed, materially altering the policy of the inspection system, as to unclaimed ashes and scrapings; but what is "passing strange," not a word is said in the law respecting the proceeds of ashes sold at private sale, &c. by Bogart and others, and held directly or indirectly in abeyance; and what is more so, not a syllable is said as to requiring owners or pretended owners to shew "satisfactory proof of ownership" by producing bills or receipts, merely they must report the ashes they have on hand unclaimed. It has been ironically remarked that inspectors did not require the aid of auctioneers, having taken the trouble off their hands by private sales, through brokers, clerks, &c., and as they were not called upon to account for the proceeds, they would not voluntarily do so. Let the section speak for itself.

"Section 17. That whenever any casks of pot or pearl ashes, or the scrapings or crustings of pot or pearl ashes, which now are or hereafter shall be stored with any inspector of pot or pearl ashes for his inspection, or otherwise, and which shall not be claimed or demanded by the owner or owners thereof within one year from the time they shall have been inspected, it shall be the duty of such inspector to deliver an invoice or weigh note under his hand, of the inspection of such pot or pearl ashes, or of such scrapings or crustings as aforesaid, and describing the private marks as nearly as may be, or to the best of his knowledge, to some public auctioneer of the city or county where such inspector shall reside, and such auctioneer shall sell the same at public auction, first giving six weeks notice



of such sale in one of the newspapers printed in the city or county where he shall reside, and in the newspaper published by the printer of this state, describing the marks and the owner or owners according to the invoice or weigh note of the inspection, and the time and place the same will be sold, and he shall pay the proceeds of such sales to the treasurer of this state, and render an account of the same to the comptroller after deducting and paying to such inspector his legal fees and charges thereon, and such other customary and other charges and expenses of such sale, as in other cases, which sum so paid to the treasurer as aforesaid, shall be for the benefit of the owner, and he or they shall be entitled to receive the same on furnishing satisfactory proof to the comptroller."

NOTE.—This section might as well never have been passed, as Messrs. Robt. Snow, Isaac H. Bogart, John H. Remsen, and William Dumont have paid no attention to it, no notice having appeared from them under this act to auctioneers. I refer to my report to the assembly, dated October, 1828, under section 185 for all notices which have appeared.

Can language be plainer and more positive than this? notwithstanding which, six years have elapsed and but one report from the three "old" inspectors to auctioneers has appeared (from Maj. Cooper) which is so full of omissions, that it were better he had withheld it. I refer to my report to the legislature of 16th inst. for copies of all the reports to auctioneers which have appeared under this act to which so little attention has been paid by inspectors (especially the 3d, 5th, and 17th sections) that it has almost literally been a "dead letter," no more attention having been paid to it than suited the purposes of inspectors and their patrons.

Revised Statutes, passed 3d December, 1827, "general provisions."

Section 171. "If any articles subject to inspection, and stored with an inspector shall not be claimed by the owner within one year from the time they shall have been inspected, such inspector shall deliver to an auctioneer in the city or county where they shall reside, an invoice or bill of such articles, specifying the quantity and quality, and the brands and other marks thereon, and also the names and residence of the owner or person delivering the same for inspection, according to his information or belief."

It was the intention of Messrs. Snow, Remsen, and Dumont, to defeat the intention of the legislature by withholding all returns under this section so as to enable them on the 1st of January next, to take advantage of the legislative mistakes in 174, and if possible, of you, in the 176th section, although they admit they have "unclaimed" ashes (or the proceeds) which have not been reported to auctioneers under the act of 1822. Should such systematic and daring violations of the law be countenanced when known?

My policy in this communication is officially to bring home to your personal knowledge officially as comptroller and as sole trustee of the fund accruing from "unclaimed" ashes, the fact that to say the least, they have for "thirty consecutive years past" been illegally withheld from your predecessor and yourself, and of course with the knowledge of the fact, that you will make it known to the legislature officially, and also the errors in the 174th section, which if not amended will subject the state to heavy costs; for inspectors who have not reported to auctioneers, can of course defeat the district attorney under the 177th section by pleading the impossibility of transmitting "duplicates" when he never had furnished an auctioneer with an original, thus profiting by his own wilful and designed omission of positive duty, and pocketing the property of the careless and unfortunate for whom the legislature thought they had benignly provided by directing public notice to be given in the state paper, and one other once a year where their ashes might be found.

It is no doubt known to you, sir, that the collector of this port is by law required to give notice in the public prints every nine months, what articles

remain in the public stores unclaimed, giving headmarks, &c. which, if not claimed within the period fixed by law, are sold at public auction, and the proceeds no doubt are deposited in the treasury. The same duty is enjoined on us inspectors every twelve months. Now, suppose Mr. Thompson should merely withhold his notices, and could make it appear that the property was untouched in the public stores, would he go unpunished? But should it be found he had from time to time been selling them (in whole or in part) at private instead of public sale, and pocketing the proceeds or giving the articles or the proceeds up to friends or dependents, would he be allowed to retain his office? Or, if he was charged verbally or in writing (as I have done inspectors specifically in the Albany Argus of September, 1826, in letter of 6th of March, 1827, to Governor Clinton, and in circular of 19th March last) with "Constructive, Legal, or Moral fraud," and he to shrink from an inquiry, would he be allowed to hold his office a moment afterwards, particularly when the charges were specific and in his power instantly to disprove if untrue? Or, would Messrs. McMichael, Douglass, Shankland, and others, in the forwarding line be justified (in private life) to pocket the proceeds of "unclaimed" articles, without first giving public notice to the owners. It appears to me, that the conduct of inspectors is inexcusable in deliberately (for years) even depriving the owners of the use of their property.

The "unclaimed" ashes, strictly speaking, are those for which bills or receipts have been issued, and by casualties have been lost or mislaid, and also when ashes have been sent to an office and no receipts have been issued. "Messrs. Hart, Thomas & Card, and Nicholas Devereaux & Co. will understand what I mean by "no receipts have been issued."

A practice of making unclaimed ashes, with which you cannot be acquainted, has existed to my certain knowledge as a merchant and inspector for twenty years; in which an inspector's conscience was the only rule, (some fixing on a certain number of lbs., and others on a certain number of hundreds,) acted at discretion until I checked the practice on the 4th, 7th, and 8th March 1825, and subsequently. To explain:

Suppose on 7th January 1825 I inspect, say sixty casks potashes, from which I take 12 cwt. of ashes unfit for inspection, (alias scrapings and crustings,) which I omit to enter on the "copy of the bill from which they were taken." The owner having confidence in my integrity, supposes I have accounted for all the ashes I received, and being hoodwinked, is perfectly satisfied. To all intents and purposes, these scrapings are emphatically unclaimed ashes as long as I do not account for them to the owner, and should be reported as such to an auctioneer after 12 months detention from the absentee.

It is fairly to be presumed that if I take such an undue advantage of one credulous confiding owner when present, that I have frequently of absentees, particularly when I can cover all mal practices (on 1st Jan. next,) by the forfeiture of \$250 under the 136th section, merely by neglecting to report under the 171st, 174th, 175th, or 176th sections, and perhaps pocket thousands of other people's property by the evasion or finesse, and start anew on a fresh career, the legislature having legalized the trade.

It was to cut up "root and branch," those and other mal practices equally illegal and immoral, that I got Mr. McCall to introduce for me sections, 174th, 175th, and 176th, into the "general provisions," to protect absentees, both at home and abroad, (and myself, should I again become a country merchant, or mercantile man elsewhere,) but they are rendered a dead letter by the 177th section, which places sellers and purchasers as before, at the mercy of us inspectors, deputies, clerks, foremen, cooper, &c. (alias, our "confidential gang,") who are admitted "behind the curtain."

No person but an inspector can form any correct idea how quickly scra-

pings accumulate. I was struck with surprise, on finding that out of 6762 casks of potashes I had taken, (and accounted for instantly to my patrons on the copies of the bills from which they were taken,) 102479 lb. equal to 3 per cent. or 15 1-6 lb. per cask, the value of which, at 3½ cents is \$3586 66, one half of which I could have withheld safely, as the owners &c. were *displeased at receiving so much*. If I had been called upon before I had ascertained the aggregate of scrapings so closely, I would have estimated the quantity of scrapings accounted for at one half. My object in introducing the 174th, 175th, and 176th sections, was to compel all the inspectors throughout the state to account for any scrapings (as with good ashes,) which by accident or design might have been omitted (on their copies) as "unclaimed ashes," so as to take away all the "temptation" to wrong the country owner, manufacturer, &c. and I feel indignant to find my views frustrated by the artful introduction of the 177th section, introduced in terms to *kill my three sections*; but I must find "ways and means" to foil my opponents with their own weapons by having the penalty increased from 250 to 2500 or 3000 dollars, or changed to forfeiture of office, which public good, private interest, and pride of character will induce me to attempt from a circumstance which has accidentally come to my knowledge. My motto is, "do your duty," and leave consequences to "Providence." So far I have suffered in purse, but not in conscience, which is a "set off" against the other I experimentally find; and it says to me, 'Persevere; you have to the astonishment of both friends and enemies (unaided and unsupported by money or friends,) actually compelled the Chamber of Commerce, the governor, and Mr. McCall, from a sense of duty, to move; and now with facts (which are "stubborn things,") at command, you may constrain the comptroller and the legislature also to move, as the public good actually requires it, if not to remedy what is past, at least to protect the absentee for the time to come.'

It appears that a combination of extraordinary events places me in a situation just now to do public good, having the documents at command to prove the substantial truths of any allegations I have or may make, and being a mere "matter of fact man," I say, deny them, and I will forthwith exhibit my proofs. I mention this, as something may appear from me other than pot and pearlash matters, (in case I deem it fit and proper to act;) if so, you may be morally certain I can prove any allegations I may make, by a reference to documentary evidence, as I now say to inspectors, "show me your books and papers, (you shall have mine,) and your condemnation is certain." One, only one deviation from official duty, (as I have told them and their patrons under my hand,) shall be fatal to my reputation; to enable me to say which, I have given up all "contingent remainders" accruing from unclaimed property, whether fit or unfit for inspection, consequently I am poor.

In the course of conversation, it was remarked substantially, "Do not mention the names of inspectors (of "provisions, produce, and merchandise") other than pot and pearl ashes, for the list of your enemies is already too great without adding the other inspectors and their friends to the number; don't you see that sections 174 and 176 apply to every inspector in the state, (and the 175th section specially to pot and pearl ashes inspectors) consequently the 177th section is intended to excuse every inspector who may have "qualms of conscience" as to making any report or affidavit required by these sections, and to avoid the forfeiture for "neglect" of \$250, by which evasions all accidental or wilful blunders made in the course of the year, (in ashes, beef, pork, flour, fish, oil, flax-seed, &c.) by either inspector, clerk, foreman, cooper, &c. &c. can be covered effectually?"

The frauds practised upon me in inspection offices of ashes and provisions, whilst a merchant in Albany, previously to 1811, instantly occurred to my mind, and I asked mentally this question. "Suppose you become again a purchaser of these articles, are you not as much at the mercy of



inspectors and their men, (as the law now stands) or more than formerly? Certainly; and as "providence" has placed you officially in a situation to do service to the people of this state that will be remembered after your death, make it fairly known to the "constituted authorities," and if they will not then act in behalf of their constituents, the fault is theirs and not yours."

The gentleman who is said to have introduced the 177th section, could not have had the most distant idea of its mischievous and dangerous tendencies, as I repeat it leads directly to carelessness, dishonesty, and perjury, as I have already shown.

To give a public officer the power to commute with money for a dispensation from all-important duties, is "passing strange." The section ought not to be allowed to remain in the statute book unaltered a moment, as it is a "bad precedent," particularly as all inspectors (myself excepted) say they are not under oath, the law of 1822 having expired, and none being required from them by the Revised Statutes, until the 1st of January next, when they can give my positive and negative oath in the 175th section the "go by" on paying two hundred and fifty dollars. If the state of things which I have mentioned will not induce you and the legislature to act on them instantly, I shall be greatly mistaken.

I shall conclude with an extract from my letter to Dox & Stoddard, dated 20th July, 1826.

"I look upon it (under the actually existing state of things) as a "special Providence" that after a lapse of so many years I should be brought from the extremity of the union, St. Mary's in Georgia, to this place, and to find myself officially in a situation to counteract for the future (I regret I cannot the past) the evil consequences of a practice of my own creating some sixteen or seventeen years ago, and that I can now explicitly and peremptorily say, that should I find hereafter quantities of ashes from inspection offices, here or elsewhere (excepting accidentally) without the designating marks required by law, branding, &c. to show quality, tare, &c. I shall deem it a duty (from having been the original author of the practice) to notify the country dupes, &c. and to give special and private reasons for doing so, as no inspector can plead ignorance on this subject who has read the clauses alluded to in the law."

For the residue of the letter, I refer to a copy transmitted to Governor Clinton on 29th September, 1827, and other communications, in which you will find "I have kept my word" with inspectors "here and elsewhere."

Was it not an illegal overture, I would propose to secure to the state for an assignment of their "legal" and "equitable" right to the "unclaimed" ashes both fit and unfit for inspection, held or placed directly or indirectly in abeyance twenty-five to thirty thousand dollars, and would undertake to settle with the owners whenever they produced their bills or receipts, taking that trouble off the hands of your sub-trustees.

In the letter to his excellency, Governor Clinton, dated 6th of March, 1827, herewith I send you some of the names of persons, who either "know or have heard from those who do know," that my allegations that Messrs. Snow, Cooper, Bogart, Remsen, Dumont, and other inspectors throughout the state, have not accounted for "unclaimed" ashes (fit or unfit for inspection) which they hold or have placed directly or indirectly in abeyance, which belong to you, sir, as sole trustee of the fund, for any part of which held directly or indirectly by me in abeyance, I am willing instantly to account (provided other inspectors and ex-inspectors are also called to account) but all your other sub-trustees will not be of my mind, and will unite their influence with other inspectors and ex-inspectors to prevent the 177th section, &c. from being amended, but specially against the authorising you to ask us to account for the monies which we have "remembered to forget" (for thirty consecutive years past) to pay over to the treasurer for account of the trustees for the time being.

I could add much more, but I will refer you to the memorials of the 3d

April, and 8th instant (to the senate) and the report under the 185th section of 16th inst. (to the assembly) for further particulars, and I put the question home to you, sir, officially, and as a citizen, whether if the allegations of mine are true or false, they ought not to be investigated by the legislature; for if true (in whole or in part) clearly prompt correctives should be applied by law. With great respect,

I am, Sir, your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

October, 23, 1828.—I have just taken up the Daily Advertiser, (seven o'clock, A. M.) and find my memorial was on Monday submitted by the senate to a select committee; as a matter of course you will submit this communication to them.

To be candid with you, my virtue (you will say nonsense) has made me so poor "fighting the battles of the public" (with the inspectors both in and out of office, and their partizans) that in fact, without borrowing, I have not the means to go to Albany and support myself there whilst the matter is pending.

If I was with the committee for half an hour, personally, I could point to important amendments (which I have not mentioned) which would enable them to report, and that instantly; and by a mere appeal to their understanding, and which none but a practical man can be aware of.

The committee may amend the law, yet I will find "ways and means" to give it the "go by" on the "lee side;" but I do not choose to commit it to paper. If they wish to know, they must send for me, because there ought to be no "undue influence" made use of to obtain or prevent amendments; inspectors' interests, (pro or con) ought to be entirely out of the question. All that should be asked is, will this or that amendment be for the public good, or otherwise?

Note to p. 96. Not a word said about "scrapings" or "crustings"—averaging three per cent. or fifteen 1-6th per cask given away at once; and to "cap the climax," "All claims of the inspector or otherwise" to be deducted from the proceeds, which left to pay into the treasury nothing.

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#### MEMORANDUM.

The following letter to governor Clinton is the one submitted to Mr. Snow and others, (between 7th and 10th March 1825,) the "*inuen-does*" in which were perfectly understood by every one in and out of Mr. S.'s office, who had had a "finger" in the "*picking and scraping*" dishes, although the allusions were "*Delphic*" to the Governor and the honorable C. D. Colden. The effect produced by the letter was identifying the interests of inspectors and others who unitedly found "ways and means" to defeat all my attempts to amend the inspection law, until the letter from Messrs. De Rham and Moore's Antwerp correspondent appeared in the Morning Courier of 20th July, 1827, to which paper and the succeeding numbers I refer for much important matter, particularly from the pen of John J. Mumford, Esq. one of the editors.

*To his Excellency Governor Clinton.*

New-York, 4th March, 1825.

Sir,

In the course of the last season I was unpleasantly situated in finding that my construction of the duties enjoined on inspectors of ashes by

the 3d & 5th sections of the law passed 5th April, 1822, was in direct opposition to that of the other inspectors, and further, that there was a difference of opinion as to the quality of fine ashes, (for which no provision is made by law,) one of the inspectors deeming them of an inferior, another of a superior grade.

As collision in opinion and practice must continue for the future without legislative interference, I will take the liberty of stating the subjects of difference, presuming that every person will agree in opinion that all the duties of inspectors relating to such an important staple article as ashes, should be clearly and explicitly defined, so that as little latitude as possible should be left to their discretion in order to ensure uniformity in practice, otherwise the interests both of seller and buyer will be (more or less,) affected by their acts.

As a junior inspector, I have a personal interest in wishing that all duties may be so fully and explicitly defined by law, as to leave no doubt or uncertainty on my mind as to the real intention of the legislature, but that I may be able to act understandingly and promptly without reference to the opinions or practices of my coadjutors in office.

With these preliminary observations, I beg leave to state that I have understood that Mr. Snow considers the fine ashes as not superior to scrapings or crustings; whereas, in Mr. Cooper's opinion, they are, (when dry,) deemed equal to any in the cask, and both, (according to Mr. Cooper's representation,) have acted in conformity to their several opinions, Mr. Snow by putting the fine ashes among the crustings, Mr. Cooper among the superior ashes.

I was for a time under the impression that Major Cooper's was the most correct, but I now think differently in consequence of a practice, (which has become very prevalent of late,) of dusting (more or less) lime on the ashes to keep them from crusting, which renders the fine ashes impure, and I now think Mr. Snow's the safest and best practice, and will be most for the credit of the article abroad. I would therefore respectfully suggest, that it be hereafter enjoined on all inspectors by law, to consider the fine ashes as scrapings and act accordingly.

The third section of the law of 5th April, 1822, directs the mode, &c. of ascertaining the qualities, tare, &c. of ashes, after which follows a clause to the following purport: "In which invoice or weigh note he shall distinguish the pot and pearl ashes in the manner herein before directed, and also make a copy of the same, in which he shall specify the original private marks and numbers together with the scrapings and crustings that shall have been taken from the pot ash, contained in the said invoice, and he shall also enter the same in a book by him, kept for that purpose."

Was it not that I have the information personally from Major Cooper, (and know the fact from his books, &c.) that he has deemed the clause a dead letter, (with the exception of what relates to the original marks and numbers,) I could not have credited it, but such is the fact as to the crustings and the entry in a book.

By the 5th section of the law the inspectors are directed to collect the scrapings or crustings, (made under the third section,) to furnish a 'weigh note, &c. after which follows a clause, "and also make a copy of the same on the copy of the invoice or weigh note from which it was taken," which clause I have also understood from Major Cooper has been deemed a dead letter by him and others.

In my opinion the third and fifth clauses contain salutary provisions, and as far as practicable I have complied with them. Should it however be thought by the legislature that they are non-essential, I would suggest the propriety of having them repealed forthwith, otherwise to enforce their execution, and for that purpose, that a clause be added to a bill directing a strict and punctual compliance with all the provisions in the 3d section, but expressly that, "on the copy of the weigh note to be rendered to the



owner or owners, or their agents, the quantity of crusting (scrapings and fine ashes) taken 'out, should] be specifically stated opposite to each and every cask, in which case the clause in the 3d section would be surplusage, and ought to be repealed. It having been found difficult literally to comply with the provisions on account of the many subdivisions of bills from which the refuse ashes were taken, and for the additional reason that the bill will be only issued (under the 5th section,) for the scrapings which the inspector finds to have been actually made by his detailed account.

As the amendments proposed will in fact be merely declaratory of the construction of the legislature, on the clauses, no objection can well be made to them, and they will further appear to be necessary as other inspectors may be appointed who also may have contrary opinions and practices on the same subject.

I have taken it for granted, that non-compliance with the 3d and 5th clauses, (head marks and numbers excepted,) will not be denied; but if so, reference can be had to the copies of bills issued since the passing of the act in the hands of the dealers in ashes in Albany, &c.

I would further respectfully suggest, that as the currency of the states is made decimal, whether it would not be advisable to regulate the weight of ashes by the same standard, which would be vastly convenient in all calculations on the articles, particularly as the practice is beginning to prevail (in other states,) to sell and buy by the neat, instead of the gross weight, in addition to which its adoption would prevent many a mistake, as the latter mode of weighing is more subject to error than the former.

The necessity of some modifications of the existing law, to me is apparent, (from what has been stated,) but should the legislature think otherwise, I will cheerfully acquiesce, as Major Cooper's construction and practice is vastly more easy and convenient in every point of view than under my construction of the act.

I am, very respectfully, sir,

Your most obedient servant,

(Signed)

R. R. HENRY.

### MEMORANDUM.

As the Journals are accessible to so few, for the public convenience, I add the following *Reports* (taken from the copies printed by order of the Assembly, 20th October and 4th November, 1828,) which may be found in the Journals of the Assembly, Extra Session, 1828, pages 54 to 63 inclusive, and in the Journals of Senate, same session, page 65.

(No. 1.)

IN ASSEMBLY,

October 20, 1828.

*Report of Robert R. Henry, an Inspector of Pot and Pearl Ashes for the City of New-York.*

New-York, October 16, 1828.

Sir,

I have the honor of enclosing you my report, as an inspector of pot and pearl ashes, under the 135th section of the revised law, chapter 17th; which please to submit to the house over which you preside.

I am, very respectfully,

Sir, your most obedient servant,

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

The Hon. ERASTUS ROOT,

Speaker of the Assembly, Albany.

REPORT of Robert R. Henry, one of the Inspectors of Pot and Pearl Ashes for the City of New-York, under the 185th section of the Revised Statute, chapter 17th, regulating the inspection of provisions, produce and merchandise,

RESPECTFULLY SHEWETH :

That on the 24th March last, he received officially from the clerk of this city, the statute alluded to, (to go into operation on the 1st May ensuing;) which he found, on examination, to contain enactments most prejudicial to the country merchant, manufacturer, (and absentees generally,) if acted on agreeably to the letter and spirit of the law, particularly the 63d section; which induced me respectfully to point them out in a memorial or report dated 3d April last, presented in Senate on the ensuing day, but which was not acted on, the session being so near a close. For particulars, I refer to the report alluded to.

When I found the legislature had adjourned, ordering an extra session in September, I made up my mind not to act under the revised law until then; as it was in so many respects defective, particularly as it granted, in the 177th section, a privilege completely destructive in fact to the entire inspection system; as it had a direct tendency to make inspectors careless, if not dishonest, (and eventually to lead to perjury;) as all blunders, whether accidental or wilful, might be covered on the payment or forfeiture of 250 dollars, or in certain cases avoiding the forfeiture by finesse: by which evasions, six sections could be rendered a *dead letter*; and if so, indirectly all the sections in the law.

To explain my meaning, I have on hand at the present moment, say dollars worth of unclaimed ashes, which say I determine not to report to any auctioneer. Of course, sections 171, 172, 173, 174, and the all-important section 175, are rendered nullities, by my wilful neglect of official and positive duty. Now, how may the 176th section in fact also be rendered so; complying with the letter, but violating the spirit of the law? The legislature have left the opening, as they do not say the person claiming as owner must show legal title by the production of the original bills or receipts, (taking it for granted that would be done:) consequently, merely by a "convenient friend" claiming, by saying in the presence of witnesses, (who may suppose it a *bona fide* transaction,) that he had lost or mislaid his bills, and asking me to issue duplicates, on a satisfactory guarantee to keep me harmless in case the original bills should ever appear: to which I consent, remarking, that had he not claimed, I would have been constrained to report them to an auctioneer as unclaimed ashes, under the 171st section of the revised law, (or the 17th section of act 5th, 1822;) thus enabling me to say, they have been claimed—giving the spirit both of the 171st and 176th sections the go by.

Or: If I never have reported any unclaimed ashes fit or unfit for inspection, under the 17th section of the act of 5th April, 1822, (or the act of 1813;) consequently I should have "qualms of conscience" as to filing any report or affidavit required by either the 174th, 175th or 176th sections. But happily the legislature relieve me from the necessity of doing either, by allowing me to commute with money for all acts of omission or commission, (under the laws of 1822, &c.) on my forfeiting for "neglect" of all-important duties, the petty sum of 250 dollars. Consequently, I pocket certain sums, (how much cannot be ascertained, because I am released from making any disclosures,) perhaps thousands (if I have been long in business) of the proceeds of unclaimed ashes, which have for years and years been accumulating in my hands, but which ought to have been paid into the treasury, for account of the comptroller, as sole trustee of the fund.

I ask respectfully, was there ever a more unwise and improvident section passed? Giving an inspector in fact a *carte blanche* to act as he thinks fit and proper, which I can do at the present moment, provided what is asserted by all inspectors (but myself) is true, that the law of

1822 having expired, (and having taken no oath under the revised law,) we are under no responsibility for acts done or suffered to be done under that act, or the revised law. Consequently we have all, since the 1st May last, been acting at *discretion*; which principle, if sound, enables us to withhold the returns required by law, of ashes both fit and unfit for inspection, to auctioneers, comptroller, &c. Consequently I determined not to act under the law, until I made known its defects to the legislature. I dismissed all clerks, foreman, &c. on the 1st May last, as a matter of course; as I could not act under it with satisfaction to myself or others, until they were corrected. I now ask with deference, whether instead of 250 dollars, at least 2500 dollars should not be the penalty under the 177th section, for neglecting (wilfully) to file any affidavit or report required by law, to either auctioneer, comptroller, legislature or owner; or forfeiture of office be substituted in lieu of the pecuniary penalty? For the particular defects in the several sections of the revised law, refer to my memorials, dated 3d April and 8th instant, on file, no doubt, with the clerk of the senate.

I would further respectfully state, that the 174th, 175th and 176th sections, will not be found in the "General provisions" reported by the revisers, but were introduced by or through the Hon. James M'Call, at my special instance and request; and are predicated entirely on the suggestions made in my letter to him, dated 16th October, 1827. But in consequence of the call on inspectors in the 174th section being for duplicates, and Mr. M'Call assuming for his limitation the "preceding year," instead of mine, say "30 consecutive years;" no inspector in the state, but myself, (with perhaps one exception,) will report to the comptroller under the 174th section. Consequently, defaulters will be reported by him to the district attorneys, with directions to prosecute for the penalties under the 177th section. And if they do, (before the section is amended,) the state in every case will be defeated, with costs; as Messrs. Snow, Remsen, Dumont and others, will plead in bar of recovery, that they could not possibly transmit duplicates to the comptroller, never having furnished any auctioneer with originals under the act of 1822; and thus, by direct evasion of positive duty, defeat the intention of the legislature outright, by taking advantage of a mistake in the section.

I would respectfully ask whether it is politic, or just and equitable as to owners of unclaimed ashes, and the state, to let all inspectors who are defaulters, profit by their own laches or omissions of duties plainly and positively required from them every year, by the 17th section of the act 5th April, 1822, and the 171st section of the revised law; allowing them indirectly (by the 177th section) to pocket the proceeds of unclaimed ashes, both fit and unfit for inspection, held or placed directly or indirectly in abeyance, to the loss and injury of the owners and people of this state; depriving both, by illegal concealment, of the use of the funds for years, and ultimately to a total loss, without they are forthwith legally called to account by and with the comptroller, the sole trustee of the fund, whose trust inspectors have usurped for years, (with one exception;) as it will not be denied by any inspector on oath, that there are unclaimed ashes, both fit and unfit for inspection, that have not been "duly accounted for" as the "law directs."

It will be perceived on examination of the baneful 177th section, that it does not say the inspector shall be subjected to the forfeiture, who shall "neglect" to make any or every report or affidavit required from him in the "General provisions;" but it selects out of the three sections (introduced for me by Mr. M'Call,) specially. It might as well have been expressed in terms, (for so it is understood by us inspectors,) that any inspector who might have reason to wish to avoid making any reports or affidavits mentioned in "the three preceding sections," (particularly the oath specially prescribed for inspectors of pot and pearl ashes by the 175th section,) shall be excused on paying 250 dollars. It never could have been intended



by the legislature to render the three most important sections in the inspection law, (recommended by me expressly to Mr. M'Call, to guard the rights of absentees,) in fact nullities, by permitting any of us who had not "duly accounted," &c. as the "law directs," to compound for omissions of duty by the payment of a sum of money; a most dangerous privilege, by the by, as it is now a matter of mere calculation in fact with us inspectors, whether compliance or non-compliance with the 171st, 174th, 175th and 176th sections, is most advantageous. Although I reported unclaimed ashes to James Seton, Esq. up till 21st January 1828, (see copy of auctioneer's notice herewith,) yet it, on calculation, is evidently for my advantage to withhold any further reports to auctioneers, (and of course to the comptroller,) and pay the forfeitures; which I would do if I did not think it would be a constructive or moral fraud, although on the payment or forfeiture of the 250 dollars it is not legally so, as the permission to practise the evasion is granted to me almost in terms by the section. To shew most conclusively the impropriety of allowing me and others the option to report or not, I now admit that I hold at the present moment a very considerable quantity of unclaimed ashes, directly in abeyance; and I further admit that I hold the proceeds of unclaimed ashes indirectly in abeyance, being money accruing from sales of such ashes, made by an inspector or his agent, and paid to me on account. Consequently I am a sub-trustee, and also a sub-trustee to a sub-trustee, and hold directly and indirectly in abeyance, funds which belong to the comptroller, as trustee appointed by the laws of 1813, 1822 and 1827; shewing the necessity of instructing and authorising him forthwith to call on me and others, to account with him for the funds illegally withheld; which I have suggested in my memorial of 8th instant, as the most summary way to get at them; because if delayed till the 1st January next, I can give the legislature the slip by abdication, or pay the composition money, and the right of the state vests in me.

No consideration in money, however great, should, in my opinion, induce the legislature to give up the guarantee which I have obtained for the public, through Mr. M'Call, by the oath in section 175; by which the inspector is made, once a year, to swear positively that he had made returns of unclaimed ashes to some auctioneer, (mentioning his name;) also that he had duly accounted for all other ashes, both fit and unfit for inspection, as the law directs; and negatively, that he has not, by himself, or any person in his employ, done such and such illegal acts. A few additional disclaimers, which I have pointed out in my memorial or report of the 8th instant, added to this oath, and the absentee, both at home and abroad, are safe, without the inspector will plunge deep in guilt. There is a peculiar necessity for enforcing this section, as by the 80th section the inspector has the power given him to appoint "as many assistants as he shall deem necessary," who may or may not be trust-worthy characters; of course, responsibility is in fact and truth divided, and can, if necessary, at any time be shifted on persons over whom the appointing power have no direct control.

The certainty that we inspectors will have to make returns under oath, once a year, would compel one and all of us to think seriously, and that hourly and daily. Consequently we could no longer plead as an excuse, "I forgot, or my clerk forgot to enter the scrapings (*alias* the commixture,) on the copies of the bills from which they were taken," &c. &c. I have been too long an eye witness to such evasions or finesses, and personally knew the excuse given of having a bad memory, &c. to be absolutely untrue; the omission to make reports of ashes both fit and unfit for inspection, being wilful and designed.

If the 177th section is allowed to remain in the statute book as it now is, an inspector need not care whether the returns made by him, his deputies or clerks, are accurate or not; as he knows all errors, accidental or designed, can be covered by omitting returns, and subjecting himself to the

payment of 250 dollars; and by which finesse, he gets clear of Mr. M'Call's (alias Henry's) oath No. 175. To allow a public officer to commute with money for a dispensation for any positive duty, however small, is a precedent, in my opinion, pregnant with evil consequences; because one precedent, in public or private life, creates another, and they soon accumulate and become law. What was yesterday fact, to-day becomes doctrine; for examples, if of long standing, are supposed to justify the most illegal and dangerous measures; and when they do not exactly suit, the defect is supplied by analogy. And the person who labours to check such practices, too often meets with enmity and ill will in return, for even distinguished zeal, particularly if personal benefit is involved in the business. Some of the evils which I have complained of, particularly the withholding returns of more or less ashes both fit and unfit for inspection, have, to my personal knowledge, been creeping into inspection offices by silent and slow degrees, for many years; but not growing to any great or open degree of atrocity, have been passed over in silence. I, however, think it is full time to make us inspectors account for every ounce of ashes we actually receive; and if by any oversight or omission, the country owner is to lose them, that we be compelled to report the ashes as unclaimed ashes to an auctioneer, that the people of this state, and not inspectors, should have the benefit from any laches or neglects of duty.

My coadjutors and their friends, both in and out of the offices, blame me excessively for the rigid rules I have introduced into the inspection law, (through the Governor, Mr. M'Call, and the Chamber of Commerce,) and those I still wish to have introduced. I, however, have asked, am I not equally bound by them as long as I remain an inspector? If I was asking for any personal exemption or immunity, the case would be altered; but I am not. I, however, may be compelled to assume my old occupation as a merchant or broker, and become a dealer (as I was formerly) in the article of ashes. Of course, I wish now, by enactments, to protect the absentee from imposition, and myself ultimately, by having the law rendered as perfect as possible, and to make it truly, what it has ironically been called, *Henry's law*.

In the exhibit herewith, I give copies of all notices which have appeared in print, relative to unclaimed ashes, from 1814 down to the 19th February 1828, when the last appeared. That private sales, and that to a very large amount, have been made in the intermediate time, through the agency of brokers, clerks, foremen, &c. (and therefore illegally,) will not be denied on oath by inspectors; and that the proceeds are not in the treasury, the books will shew. Whether inspectors and ex-inspectors will be allowed to retain the proceeds of ashes not reported to auctioneers, is the question which I submit to the wisdom of the legislature; and if permitted, I can then legally and conscientiously retain what I have in possession.

All which is respectfully submitted, by

R. R. HENRY,

Inspector of Pot and Pearl Ashes.

New-York, October 16, 1828.

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*From the New-York Gazette.*

#### EXTRA NOTICE.

The undermentioned ashes having laid in my inspection office unclaimed for more than twelve months, (all charges on them of inspection, storage, &c. being unpaid,) and the supposed owners or agents, Messrs. Keeler and Rogers, Willard Walker & Co., Ralph Pratt & Co., and Manning & Richmond, disclaiming all right in the property, I do give this extra notice to the holders of the original bills, that if all charges are not forthwith paid,

the ashes will be sold at auction, agreeably to the 17th section of the "Act concerning the inspection of pot and pearl ashes," passed 5th April, 1822.  
(Signed) R. R. HENRY,

No. 7, Washington-street.

New-York, July 10, 1826.

R. M. Bailey,	9	casks	pearl	ashes,	inspected	9	May,	1825.
E. & E. D. N.	2	do	do	do	do	13	do	
Do. & do.	23	do	do	do	do	13	do	
E. B.	11	do	do	do	do	18	do	
H. M'Graw,	45	do	do	do	do	19	do	
M'Graw & Dowd,	53	do	do	do	do	19	do	
Do. & do.	12	do	do	do	do	21	do	
R. D. Delay & Co.	3	do	do	do	do	21	do	
A. Babcock,	31	do	do	do	do	23	do	
W. & Edgcomb,	4	do	do	do	do	28	April.	

193 casks.

[From the N. Y. Daily Advertiser of Friday, Sept. 22, 1826, No. 2925.]

#### FIRST OFFICIAL NOTICE.

By MARTIN HOFFMAN & SONS, 12 o'clock, at No. 7 Washington street,  
on the 14th November.

#### NOTICE.

The undermentioned ashes having laid in the inspection office of Robert R. Henry, No. 7 Washington street, New-York, for more than 12 months unclaimed ; notice is hereby given, in compliance with the positive directions contained in the 17th section of " An act concerning the inspection of pot and pearl ashes," passed 5th April 1822, that unless claimed within six weeks, and all charges on them paid, the ashes will be sold at public auction, at No. 7 Washington street, on the 14th November next, and the nett proceeds will be paid into the treasury of this state, for the benefit of the owner or owners.

#### HEAD MARKS.

Casks Pearl Ashes.

W. Edgcomb,	4	insp'd	29	April	1825,	for	Manning & Richmond.
M'Graw & Dowd,	53	do.	19	May	"	for	Ralph Pratt & Co.
H. M'Graw,	45	do.	19	May	"	for	do. do.
R. Tiffany	4	do.	13	Sept.	"	for	Capt. B. Whipple.

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(Signed)

M. HOFFMAN & SONS.

The same notice will be found in the state paper, being required by law.

NOTE.—In consequence of the benign intention of the legislature, in compelling the inspectors imperatively to report to an auctioneer, by not leaving it optional, as under the 12th section of the act of 25th February 1813, (he *shall*, not *may*,) report, all the ashes were legally claimed from me, by the actual production of the bills or receipts, before the day appointed for the sale as above : and of course none could be legally made, as all the charges, with the exception of the advertising, were paid. Those I thought it advisable not to insist on, it being a novel transaction, being in fact the only notice that had appeared since the spring of 1814; from which period, all the inspectors, with the exceptions of the above, had withheld their reports from auctioneers, and of course the proceeds from the comptroller, the sales having been made through private agents, and of course illegally : consequently they have "usurped his trust," he



being appointed by the laws of 1813 and 1822, the "sole trustee" of all the funds accruing from sales of unclaimed ashes, whether fit or unfit for inspection; of course illegally depriving the owners, and the people of this state, of their rights in the property, by wilfully and designedly concealing from them, by evasion of the law, where it was deposited.

I was strongly tempted not to publish the extra notice, nor the first report to the auctioneers, but to be perfectly silent, as others were, on the subject; and if so, had any of the bills or receipts, from casualties, been lost or destroyed, the ashes of course became mine, by merely getting a "convenient friend" to claim or demand them as owner, consequently enabling me to say I had no ashes which had not been "claimed or demanded;" which could safely have been done, as the legislature, in all their acts, have most unwisely "taken it for granted" that no person but a *bona fide* owner would claim; consequently have omitted to say "a legal title must be shown by the exhibition of the original bills or receipts," which left the door wide open by finesse and management, to give the laws of 1813 and 1822 the go-by; rendering them, as to unclaimed ashes, a perfect dead letter; as from the same oversight, will be the sections in the general provisions of the revised law, from 171 to 176 inclusive; particularly as the 177th section, in terms, gives the inspector the option to report, &c. or not, as he thinks proper, on paying 250 dollars for the "neglect," whichever he may find, on calculation, most for his advantage. I, however, thought, (the inspection laws out of the question,) that if I withheld the ashes or the proceeds of ashes, without first giving the owners or their representatives who might have lost or mislaid vouchers, public notice where their property was deposited, I would be guilty either of constructive, legal, or moral fraud; consequently, I have always deemed it fit and proper to pursue the precise course pointed out by the law; of course giving up the chance of becoming the owner of any of the ashes officially in my possession.

## SECOND EXTRA NOTICE.

[Published in the New-York Morning Courier.]

### UNCLAIMED ASHES.

The pot and pearl ashes mentioned below, not having been claimed or demanded within 12 months, I give this extra notice to the holders of the weigh notes, (or bills and receipts,) that unless they forthwith exhibit them and pay the charges, I will be constrained to make the report to an auctioneer, imperatively required from me officially by the 17th section of "An act concerning the inspection of pot and pearl ashes," passed 5th April, 1822; the legislature presuming that the condition of a perishable article should be ascertained at least annually, without the vouchers were lost or mislaid, or the place of deposit was unknown.

casks,					
E. Mather,	65	1	pearls,	insp'd	10 May, 1826, for W. Walker & Co.
M. & Perry,	49	1	do	do	13 " for W. & J. James.
A. H. West,	8	1	pots	do	26 " for F. A. Stuart.
E. C. Hickox,	24	1	pearls	do	2 June
Do	11	1	pots	do	2 "
Do	2	2	do	do	2 "
Do	1	2	do	do	2 "
H. & Coit,	1	2	do	do	2 "
Do	3	1	pearls	do	2 "

} for S. Tooker & Co.

C. G. Merrill,	48	1	do	do	10	"	for W. & J. James.
A. Babcock,	8	1	do	do	20	"	for W. Walker & Co.
E.D.N. & Co.	32	1	do	do	21	"	for do.

252 casks pot and pearl ashes.

(Signed)

R. R. HENRY.

Inspector of pot and pearl ashes.

New-York, July 25, 1827.

No. 33 Front-st.

[From the New-York Morning Courier, January, 1828.]

## SECOND OFFICIAL NOTICE.

By James Seton, as Auctioneer.

### UNCLAIMED ASHES.

Agreeably to the 17th section of "An act concerning the inspection of pot and pearl ashes," passed 5th April 1822, I give notice that Robert R. Henry, one of the inspectors of this city, has officially reported to me, that the following ashes have not been claimed or demanded according to law :

E. D. N. & Co.	32 c'ks p'l ashes,	insp'd	21 June 1826,	for W. Walker & Co.
A. Babcock,	8	"	" 20	" for do.
J. Sinclair,	crusted ashes	"	28 Oct. 1824,	for Keeler & Rogers.
S. Grover,	"	"	23 May 1825,	for Mowatts & Co.
R. L. Wiley,	"	"	23 June do	for Capt. Schuyler.
E. Fairbanks,	"	"	5 Aug. do	for E. Fairbanks,
S. Miller, jr. & Co.	"	"	19 do	for Boyd & Suydam.
R. S.	"	"	7 Sept. do	for R. Pratt, & Co.
Talcott & Warner,	"	"	21 Nov. do	for Capt. Whipple.
M. G.	"	"	21 do	for — Ostrander.
A. Babcock,	"	"	20 June 1826,	for W. Walker & Co.

Now, in conformity with the duty enjoined on me by law, I give notice that the ashes will be sold at public auction, on Tuesday 11th day of March next, at No. 33 Front-street, at 12 o'clock, and the neat proceeds will be paid into the treasury, if not legally claimed, and all the charges paid before the day of sale.

[Signed]

JAMES SETON.

Auctioneer.

New-York, January 21, 1828.

The same notice was inserted in the state paper, being required by law.

The sale of the ashes was postponed until the 22d April 1828, when the 40 casks pearl ashes were legally claimed, (the original bills being produced;) but for the residue, crusted ashes, no person appearing to legally claim them, in whole or in part, they were sold at public auction, at No. 33 Front-street; and the neat proceeds have no doubt been deposited in the treasury, for account of the comptroller, the sole trustee, by the auctioneer, James Seton, Esq.

Independently of the ashes advertised by myself and the auctioneers, there were seven bills containing one hundred and two casks [102], the original bills for which were lost or mislaid, but were claimed by three conspicuous houses here before the 12 months had expired, and to whom duplicates were issued; as their guarantees could not well be refused, without subjecting myself to the suspicion of being governed by sinister motives; although I could have refused, on the principle that I was answerable years and years to come, in case the original bills were tendered for de-

livery, and they perhaps then bankrupt, and unable to keep me harmless. I mention this to show, that if houses so notorious for care, could lose or mislay bills, others might; and what strong temptations I have had to refuse issuing duplicates and withhold reports, as they would have been without remedy as long as it might have been for my interest to delay or neglect reporting them to any auctioneer; and of course, I could have used more or less of the ashes in the interim, supplying them by substitutes when called for, with the chance of being the owner if the bills were lost.

In the New-York Daily Advertiser of Thursday, 19th February, 1828, No. 3348, the following official notice from an auctioneer appeared:

### UNCLAIMED ASHES.

Agreeably to the 17th section of an act regulating the inspection of pot and pearl ashes, passed 5th April, 1822, I give notice that Major Samuel Cooper, one of the inspectors of this city, has officially reported to me the following ashes, which have not been claimed or demanded according to law, to wit:

#### HEAD-MARKS.

T. Dixon,	2 bbls.	2 sort pearl ashes.
R. G. & Co.	1 "	1 sort do
J. Smith,	8 "	2 sort do
M. C.	2 "	1 sort do
E. M. & C. M'C.	8 "	1 sort do
W. Scott,	2 "	1 sort pot ashes.
N. Ayrault,	3 "	1 sort do
P. Dauchy,	8 "	1 sort do
E. B.	4 "	nitrate of do
Ayrault,	1 "	1 sort do

In conformity with the duty enjoined on me by law, I give notice that the ashes will be sold at public auction, on Tuesday 22d April next, at No. 29 Front-street, at 12 o'clock; and the neat proceeds will be paid into the treasury, if not legally claimed, and all charges paid, before the day of sale.

[Signed]

W. W. WHITMORE.  
Auctioneer.

NOTE.—By comparing Mr. Whitmore and Mr. Seton's notice, it will be seen that the dates when inspected, for whom, &c. could not have been reported to Mr. W.; consequently it cannot be ascertained whether the ashes had been inspected two years or twenty years, and how long the notice had been withheld from the auctioneers.

It would have been better if the report to Mr. W. had been withheld altogether; for to my personal knowledge, there are many errors and omissions in it, that without Major Cooper makes a supplementary disclosure to an auctioneer, he cannot report, &c. to the comptroller, under the 174th and 175th sections, nor under the 176th section.

The preceding notices are all which, on the most diligent inquiry, I can find have appeared relative to unclaimed ashes, from all the inspectors in the state of New-York, since the year 1814; when a small payment, as the neat proceeds, was made by mistake into the treasury, under the 12th section of the act of 25th February, 1813; the inspector supposing the proceeds of previous sales also made at auction, for his coadjutor inspector, had been deposited there: but finding he was in error, he retained the proceeds of the subsequent sales to a large amount, as sub-trustee to the comptroller; but he is freed from responsibility to the state, by the statute of limitations, and having abdicated his office some years ago.

The result of unclaimed ashes, both fit and unfit for inspection, under



the act of 25th February 1813, section 12, which expired on the 4th April 1822, is, that

Major Cooper never made any report to an auctioneer under this act, but had the ashes sold, through clerks, foremen, and other private agents. The proceeds have not been paid into the treasury, for account of the comptroller as sole trustee, but are held by him directly or indirectly in abeyance, as his sub-trustee, and subject to his call to refund, if not bestowed as a largess by the legislature; as the right to recover is barred by the statute of limitations.

Mr. Snow made one disclosure to Mr. Robert M'Mennomy, as auctioneer, in the spring of 1814; the ashes sold; the proceeds paid over to Mr. Snow, but have not been deposited in the treasury, because the head-marks (as appears from an original paper,) could only be ascertained on three casks, all the others being effaced by time and alkali; consequently, if paid into the treasury, the proceeds must from necessity escheat to the people. They were therefore withheld by Mr. S. as sub-trustee, till owners appeared. I understand there is a receipt for proceeds, from a "convenient friend;" but the question is, how did he shew title? The proceeds of all subsequent sales made through private agents, are held directly or indirectly in abeyance.

Mr. Bogart made a disclosure of unclaimed ashes, which remained unsold, to Mr. M'Mennomy, and actually paid the proceeds to treasurer Platt in 1814; but finding that both Messrs. Snow and Cooper withheld proceeds, he did so of subsequent sales, as sub-trustee, &c.

Under the act of 5th April 1822, section 17th, which expired on 30th April 1828,

Major Cooper has made a report, dated 19th February 1828, to W. W. Whitmore, the auctioneer, (which I have given a copy of;) but it is so full of errors and omissions, that it might as well have been withheld.

Mr. Bogart has made no report to any auctioneer under this act, but has sold unclaimed ashes, both fit and unfit for inspection, at private sale, and the proceeds are not in the treasury, but are held directly or indirectly in abeyance, partly by his clerk, Mr. Nathaniel Conkling, if not since refunded.

Mr. Snow has made no report to any auctioneer under this act, although imperatively directed on the 5th April 1822, to report all unclaimed ashes under the act of 1813, then unreported, and annually afterwards.

Mr. Remsen admits he has unclaimed ashes on hand, but has not reported them, because Mr. Snow would not his. Such is the effect of a bad precedent."

Mr. Dumont, do. do. do.

Mr. Henry made his first report to Martin Hoffman & Sons, on 22d September 1826. The ashes were all legally claimed before the day appointed for the sale. Owners, David Stebbins, and George Merle, Esq.

His second report was made to James Seton, Esq. on the 21st January 1828, (see auctioneers' notice.) The 40 casks pearl ashes were "Legally" claimed by Wm. Card, Esq. The residue, crusted ashes, not being legally claimed, were sold 22d April last, and the neat proceeds have no doubt been paid into the treasury by the auctioneer.

The third report I withhold, as inspectors say the legislature will allow all inspectors to retain all the unclaimed ashes which have not been reported; which I wish to ascertain by this report. For if the comptroller is not specially directed to call upon inspectors to pay over the proceeds, I shall take it for granted they are right, and govern myself accordingly. I could give some heavy items of proceeds of ashes directly or indirectly in abeyance, but think it most fit and proper that each inspector should make his own disclosures to the comptroller, in case he should be directed to call upon us sub-trustees, to refund; and if so, that the call should be extended to ex-inspectors; and that whoever did not

report and account, should be removed, if in office, and if out of office, be debarred from any appointment, until he did report and pay.

R. R. HENRY,  
Inspector of Pot and Pearl Ashes.

New-York, October 16, 1828.

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[No. 2.]

IN ASSEMBLY.

November 4, 1828.

*Report of the Joint Committee on the Memorial of Robt. R. Henry.*

The joint committee of the senate and assembly, to which was referred the memorial and report of Robert R. Henry, on the subject of the inspection of pot and pearl ashes, respectfully report, That they have examined the documents, and the statute referred to in his memorial.

The practices of inspectors, as mentioned therein, cannot be considered evasions, but are palpable violations of the statute.

The duties of inspectors are clearly set forth in the sixty-fourth section. If inspectors are in the habit of inspecting ashes without emptying the casks, and without branding on the head the quality, the remedy is to be found, not in further laws, but in the removal of present incumbents, and the appointment of others.

Ashes remaining in the inspector's office, are claimed by the next friend of the inspector, by a collusion between them. To avoid this evil, the memorialist suggests the propriety of amending the law, by qualifying the word "owner" with the epithet "legal." Your committee believe this unnecessary. The owner is the legal owner. Any inspector who shall have connived at and allowed a spurious claim, because the statute does not say "legal owner," has violated his oath of office; and the complaint should be made rather to the grand jury than to the legislature.

There is no doubt but many inspectors are in possession of large sums arising from unclaimed ashes. Your committee believe that a reasonably good conscience and faith would have found ample provisions in the statutes, requiring them to pay the money into the treasury of the state. But inasmuch as the Revised Statutes are not understood as requiring the inspectors to account for any unclaimed ashes previous to the first of May last, when these statutes went into operation, and the former statutes were repealed, your committee have thought fit to provide for the case.

They have also altered the size of barrels in which pearl ashes are packed, and required the comptroller to call on the inspectors to account for unclaimed ashes.

The time is at hand, when your committee believe that a better state of things will exist in relation to the inspection of ashes; when an inspector general will occupy the places of several independent ones; and when cupidity to get business will cease to induce the inspector to become the pliant tool of some rogue or speculator.

T. HART, Chairman.

## ON "DISCRETIONARY POWER."

Extracted from Governor Van Buren's Message, January 6, 1829.

„ Allow me, in conclusion, to submit some observations of a more general character. That a jealousy of the exercise of all delegated political power, a solicitude to keep public agents within the precise limits of their authority, and an anxious desire to see all public expenditures under the control of a rigid and scrupulous economy, are indications of a contracted spirit, unbecoming the character of a statesman, is a sentiment that most men at some period of their lives are prone to entertain. I cannot claim to have been always exempt from its influence. But the limited experience which it has been my fortune to have in public affairs, has abundantly satisfied me that it is a political heresy which cannot be too soon or too effectually exploded.

“It was truly said by one of my predecessors in office, who was one of the most distinguished and efficient civil patriots of the revolution, that few circumstances are more essential to the duration of civil liberty and the well being of a free people, than that the departments and officers of the government do, on the one hand, exercise on proper occasions, all the powers and authorities constitutionally committed to them; and on the other hand, that they do not exercise on any occasion powers and authorities which are not constitutionally committed to them. The enforcement of these excellent and saving principles so far as they relate to most of the departments of the government, rest with you, and with the right is the duty to exercise it.

“It is also a truth confirmed by the experience of this as well as every other country, that no people are so well served as those whose laws exact the most strict accountability from their public servants, and enjoin frugality in expenditure as a cardinal virtue. Acting upon these principles, I do not hesitate in fulfilment of the duties imposed upon me by the constitution, to recommend to you the propriety of a faithful survey of the existing laws relating to the powers and duties of public officers, and the enforcement, as far as possible, of strict conformity to their provisions—of limiting, as far as practicable, the range of official discretion, always remembering as a general rule, it can not be confided to any one, without danger of abuse—of ascertaining whether the securities now required from those intrusted with public moneys, may not be increased—of *making the instances in which the government releases those, who, forgetful of the sacred character of their trust, wrongfully apply the public funds to their own use, as rare as may be consistent with the claims of humanity—and, generally, of compelling a vigilant accountability, and strict economy in the public disbursements through all their ramifications.* There is no reason to apprehend impediments to a successful administration of the government through unreasonable jealousies upon these points. As long as public sentiment, the great lever of our political machine, remains as now, intelligent and patriotic, we need not fear that any measure with which the public interest is essentially connected, will fail of support.”

## ON "LOBBY" INFLUENCE.

Extract from Governor Throop's Message of January 5, 1830.

“I cannot close this communication without referring to an illustration of the virtuous tendency of our representative system, and the corrective



energy of public opinion. I can speak of it without reproach, as it is a part of the public history of our legislation, that at a former period, individuals congregated for the sake of pecuniary gratifications, and forced their services upon those who had legislative grants in view, and endeavoured by their combined efforts, to control the passage of laws. Encouraged by their numbers, they openly boasted of an influence which they did not possess, and frequently threw a suspicion upon the purity of individual members. They have not appeared embodied for several years; and it is the strongest proof of their entire dispersion, that the whole subject of re-chartering the banks, and revising our monied institutions, was acted upon at the last session without the least suspicion of improper extraneous influence."

NOTE.—Some of the succeeding numbers of the state paper I am told speak a different language on the subject.

### ON "BACK STAIRS" INFLUENCE.

Extract from a Letter to the Hon. Francis Granger, of Jan. 1830.

"I have, since the receipt of the governor's message, added to it all after the words "Hints for additional amendments," with a view of sending it to my family and friends in Georgia, as a "clew" to the last paragraph in the message, showing that if "lobby" influence was on the decrease, that "back stairs" influence had "increased, was increasing, and ought to be diminished."

### ON "UNDUE" INFLUENCE.

The affidavit in the hands of Mr. Granger, and the memorial suppressed by the Judiciary Committee of the senate, contain much important matter, but being so voluminous they cannot be published. They will probably see the "light" on an inquiry into the motives for making the "spurious journal entries" on the 4th and 6th February, and 6th and 7th April, 1829. Until the suppressed memorial is forthcoming, the turpitude of the report made by the Hon. Truman Hart, as chairman of the Joint Committee, cannot be duly appreciated, but every effort will be made by the "REGENCY" to prevent that taking place.

*To the Hon. Virgil Marcy, Solicitor of the Treasury, Washington City.*

NEW-YORK, 12th JUNE, 1830.

Sir,

I have not seen the law relating to your official duties, but I take it for granted, that a special one must be to attend to all frauds on the treasury by its officers and others, and to bring them to account.

I enclose you two documents, (from me) one relating to the collector of St. Mary's, Georgia, mal-practices, generally; the other, specially to the use and absolute conversion of a custom-house bond, given by Bilbo & Havens, as principals, and Wm. Gibson, Esq. as surety, for \$1588 12, dated 8th December, 1814, payable the 8th September following, used by the collector on the 10th July, 1815, to purchase NEGROES from the sur-

ty, Mr. Gibson, which fact he testifies to TWICE (in March 1822 and November or December, 1823) as you will find among the mass of testimony taken by the GOVERNMENT AGENT, Richard W. Habersham, Esq., all which testimony it was found necessary to suppress when it reached Washington, as it made such unpleasant disclosures relative to the SLAVE TRADE at St. Mary's, and the mode and manner of carrying it on.

My object has been to save you all the trouble of research, excepting when my averments are doubted, which, by the by, a reference to the suppressed testimony will quickly dissipate, and will convince you that I am literally a matter-of-fact man.

The proof of absolute conversion is in a certificate from the secretary of the treasury, dated 10th of November, 1821, and the memorandum in the handwriting of one of his clerks, that the bond was unpaid on that day, and which I aver it is at the present moment; but if paid subsequently to the 10th November, 1821, so much the better for my purposes; and provided further, that the six years and four months' interest was not also paid. I am ready to produce the original certificates whenever called on.

Although the treasury has not a list of the bonds transferred by Bessent's administrators, on the 7th January, 1815, to Clark, showing the names of principals, sureties, dates, and amount, yet I have a list now in my possession of the bonds to the amount of \$150,859 45; shewing, also, whether paid to Clark in treasury notes, cash, when, &c. which I am ready to produce if called to Washington, but not otherwise.

Will you have the goodness, on receipt of this, to inform me whether you will have any occasion for me personally at Washington with the list of bonds in my possession; if not, I wish to get employment here that will give me a support until the *meeting of congress*. I would take it as a special favour if you will give me an immediate answer, when I shall be able to regulate myself accordingly. I am, very respectfully,

Sir, your most obedient servant,

R. R. HENRY.

NOTE.—I will to-morrow send you copies of my letter to the president, of the 30th April, and to the Hon. Edw. Livingston, of the 12th May last, as they contain much matter which you should know in order to act understandingly in this affair, which I wish you to scan critically, and take nothing from me as granted, as I make it a rule always to be able to advance and not recede. I can pick out at Washington what will substantially support my averments with what I have in possession.

*Certificate from the Secretary of the Treasury of 10 Nov. 1821.*

"I have caused an examination of the accounts of A. Clark, the collector, to be made, and the enclosed memorandum shews that it is uncertain whether the bond of Bilbo came into his hands. If it formed a part of the sum transferred to him, it has not been accounted for by him, as it does not appear upon the list of bonds in suit."

*Enclosed Memorandum.*

"Abraham Bessent's account was settled by his administrators on 7th of January, 1815, and the uncollected bonds transferred to Archibald Clark, his successor in office, to the amount of \$179,372 32, credited by Clark, but no list was furnished by the administrators of Bessent, showing the

names of principals and sureties, the dates and amount of the bonds composing the above sum. It is therefore impossible to ascertain whether Clark ever received a bond of Bilbo from Bessent. In the return of bonds by Clark, the name of Bilbo does not appear, neither is it in the list of bonds in suit rendered by the district attorney of Georgia."

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*Testimony of Judge Gibson, taken at St. Mary's, Georgia, on the 15th March, 1822, by Richard W. Habersham, Esq. the District Attorney, specially appointed.*

Under 15th Specification he testifies. "On the 10th July, 1815, I sold to Major Clark my own negroes to the amount of \$3000. There was a bond due the 3th of September following (Bilbo) at the custom-house, in which I was security for \$1588 12, and I gave him (Clark) credit for the remaining \$1411 88, till the 1st of January following, not conceiving it would be injurious to the government of the United States to deposit property (negroes) to such an amount, and receive payment of little more than half by a bond not due for nearly two months afterwards."

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### *Negro Inspectors.*

"Dr. Whipple Aldridge being produced, the collector stated it was unnecessary to proceed to examine with regard to William Clark and Gustavus Hall, as he admitted they were SLAVES and BLACK MEN."

Refer to the National Calendar from 1818 to 1822, for the return of the negroes as inspectors. Also, to Col. Gardner's New-York Patriot of the 28th July, 1823. Also, the Albany Daily Advertiser of Oct, 30 and 31, 1823. The vouchers on file with the Register of the treasury; and the letters to President Jackson, dated the 1st, 2d, and 7th of July, 29th Oct. 16th February, 2d March, and 30th April last; and to the Hon. Edward Livingston, of the 12th of May last; also the list of documentary evidence furnished the solicitor of the treasury on 21st June last.

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### *To the Solicitor of the Treasury.*

NEW-YORK, 28th July, 1830.

Sir,

On Saturday evening I called at the post office for letters, was told there was none for me, but the clerk remarked there was one for "H. H. Henry," and if I expected any communication from the treasury department, it was probably intended for me. I told him I had been anxiously looking for a letter for many weeks past from you, and it was handed to me of course, and proved to be yours of the 2d inst.

As the letter is short and of great consequence under existing circumstances, I will give a copy of it for the information of friends and also the public, who will probably have it with suppressed documents as a supplement to a letter from me to the chamber of commerce on the subject of abuse of "discretionary power, (on the part of "state" government officers in my case) showing the truth of governor Van Buren's axiom in his message of 6th January, 1829, journals of the assembly, page 17, that such powers "cannot be confided to any one without abuse." The auxiliary



help which the multiplied abuses of "discretionary power" on the part of the officers of the "general" government (no where granted even constructively) will be to my hypothesis, is too apparent to require any enumeration, as you will perceive however from what follows.

Office of the Solicitor of the Treasury.  
WASHINGTON, July 2d, 1830.

Sir,

Your several communications have been received. Understanding that the matters to which they refer have long since been decided on by the treasury department, I have not opened them, but have the honor to inform you that the papers you have forwarded to me will, in compliance with your wishes, be placed on file in this office. I am, very respectfully,

Your most obedient servant,

V. MAXCY,

Solicitor of the Treasury.

To H. H. Henry, Esq. New-York.

NOTE.—As the remainder of my letter is too long to publish entire, the following extracts are subjoined :—

"Being a plain "matter-of-fact man," it appears to me "passing strange" that the contents of papers wrapped up in thick "foolscap" paper and sealed could be got at without "opening" some one of the packages at least, but that perhaps may be owing to the dulness of my comprehension, although I have heard and read of men whose perceptive faculties were so intuitively great that they almost appeared superhuman. I have always understood, sir, that your intellectual powers were acute in the extreme, and perhaps you may have "guessed" at the contents of the packages without "opening" the "seals" of either of them, although to minds formed in the "common mould," the operation is incomprehensible. The days of miracles are said to be past, but it appears in this case to be an erroneous opinion."

"I cannot help expressing my astonishment that Secretary Ingham, a personal friend of Mr. Crawford, and you a personal friend of Mr. Van Buren should, to screen a knavish collector, jeopardize your several friends, for either Mr. Crawford or Mr. Van Buren's character for veracity at least, must inevitably fall a sacrifice on an investigation of the journals of the senate which the opponents of Mr. V. B. even in that body (not implicated in "what has been done") will not shed many "salt tears" if constrained by a "sense of duty, honour, and conscience," to make. As their personal friend, therefore, I would suggest to you the propriety of reviewing what has been "decided" at the treasury in time by "opening" the "sealed packages," and reading them before the "sovereign people," and their representatives get hold of them; for if so, the "devil will be to pay among the fiddlers, whether the piper is paid or not."

"From present appearances, I opine Judge Peck will not stand alone, in the senate chamber next winter, if this business is inquired into, as "trifling events" may even lead to such "important results" as impeachment, and all to accrue from a solitary individual saying in the petty village of St. Mary's, Georgia—that the roll or register of slaves (now in Washington) admitted to entry at the custom house, was forbidden by constitution and law. That the permission of the deputy collector to alter an entry on the roll to defeat a seizure (for a bribe in money) was both fraudulent and criminal. That drawing money from the treasury in vouchers proved to be from negroes, was fraudulent in the extreme, as it was literally

obtaining money by false pretences, &c., see charges ; and when the testimony (twice taken by Mr. Habersham) is received at Washington, it is "decided" that it must be "suppressed," which is accordingly done by Secretary Crawford. See the names of witnesses (below) whose testimony was suppressed, but if not, what a situation senator Van Buren and others are in who gave their assent to the nominations ; therefore, whether Mr. Crawford or Mr. Van Buren is right, is a matter of no moment to me, as either will answer my purposes."

"The entire testimony of the following persons taken by Rich'd. W. Habersham, Esq. district attorney and government agent, specially employed to investigate the illicit introduction of slaves into the St. Mary's district, and other malpractices of the collector, (under thirteen charges and eighteen specifications) filed by Mr. Habersham at Washington, in April, 1822, and Decem. 1823, totally suppressed by Secretary Crawford in consequence, it is said, of a threat of the collector, that if not supported against me, he would discover who were General Mitchell's "sleeping partners," (from Washington to Alabama) in consequence of which an "hermetical" seal was put upon the testimony (furnished by me through Mr. Habersham) and will be continued until taken off by congress.

John Boog, Daniel Mickler, William Gibson, John Sleight, Whipple Aldridge, Edward J. Sherman, Herman Courter, Bassil Allen, M. H. Hubbard, Lewis Levy, Z. Kingsley, Daniel Gracie, John Stotesbury, Robert Church, Isaac Crews, J. N. Chapple, Henry Sadler, Edmund Richardson, John H. Mc Intosh, E. Clark, R. L. Halcombe, George Long, Joshua Hickman, Thos. H. Miller, John Chevalier, Ira Sibley, Catherine Fitzgerald, John Floyd, Samuel Clark, Belton A. Copp, Lewis Defoure, and others, whose names are not recollected by me."

To give you, sir, (as you have not "opened" the "papers") and the public some little idea of the nature of the testimony suppressed by the treasury department, I will select what follows, but will not mention names of witnesses, only what has been sworn to, the accuracy of which you can ascertain from the originals in the hands of the gentlemen of the treasury, with whom you have consulted as to the suppression of the documents sent you, as the course you have taken is in fact and truth nothing less, as they only did the same at the treasury, (put them on file) as I do not suppose they yazood them as they came to hand from Mr. Habersham and me.

"That he did bring from Amelia Island (Spanish territory) slaves, which were seized and released, but he could not say by whose order ! ! !

"That he introduced a number of slaves, who were seized—that in the public market he threatened to complain of others—that they were released to him, but he could not tell whether by order of the collector or in consequence of the threat ! ! !

"That he communicated his wish of bringing over his negroes to Major Clark by letter, but he does not recollect whether he made any personal entry of any negroes on the roll."

"Thousands were introduced in this way under the Roll, and to such an extent that the deputy collector Halcombe remonstrated, but (ways and means) were found to silence him. I have no doubt the same game has been played ever since I left St. Mary's down to this day. What is to prevent it ? Nothing."

"Since I have reflected upon your conduct, as an "ex-parte judge or arbitrator," I look upon my possession of your letter as a "special providence" as it shows "undue influence" so conclusively ; and I therefore return you my thanks, for it as an additional weapon for offensive and defensive operations unwisely furnished me by my opponents as merely by sending it to the houses, and asking them to call for the "sealed papers," bring up the whole question at once, as the list of suppressed documents furnished you will show their number, dates, &c."

## TO THE SOLICITOR OF THE TREASURY.

NEW-YORK, August 6th, 1830.

Sir,

I am favored with yours of 2d inst. acknowledging the receipt of mine of 28th ult. As it will save me the exhibition of the original to friends, &c. and is short, I will copy your letter for their information.

Office of the Solicitor of the Treasury, }  
2d August, 1830. }

Sir,

Your communication of the 28th ult. has just been received. The only object of this letter is to say, that you have entirely misunderstood my letter to you, in supposing I said I had not opened your letters or communications. My obvious meaning, if you will take the trouble to re-examine the phraseology of my letter, is that I have not opened matters, long since decided at the treasury department, to which your communications refer. I am, sir, your most ob't. serv't.

V. MAXCY,

Solicitor of the Treasury.

To R. R. Henry, Esq. New-York.

Consequently, that you are aware of the contents of my communications of 12th, 13th and 21st June, and the 8th and 28th ult. but deeming the decision of the treasury final, you will not inquire even whether BILBO's bond is still unpaid, maugre secretary Crawford's certificate of 10th November, 1821, that it was not paid on that day, the testimony of judge Gibson, (taken by the government agent, Mr. Habersham, in March, 1822, and December, 1823,) that he received Bilbo's custom-house bond on 10th July, 1815, from the collector, in part payment for negroes, two months before maturity, putting Mr. Bilbo's testimony, (which has or may be obtained, as he is living in Savannah,) and all the other evidence out of the question relative to other mal-practices. The same kind of testimony sent on from this port against the collector would cause his instant removal.

The question whether your decision is a correct one relative to the use and absolute conversion of Bilbo's bond, can be determined by a simple appeal to congress, when incidentally the other matters will come under review, and whether the secretary of the treasury was deterred from doing his duty by threats of the collector of St. Marys, as detailed in mine of 28th ult. The very silence of the secretary and his friends to the suggestions relative to the suppression of the letters in Mitchell's case and the testimony, taken by Mr. Habersham in 1822 and 1823, at St. Marys, will be prima facie evidence if the truth of the allegations, putting the journals of the Senate and the "*clashing*" between his and Mr Van Buren's *written* declarations out of the question. One or the other of whom must be in error, which a congressional inquiry will show.

As the matter now stands, we are fairly at issue. Secretary Crawford certifies in writing, on 10th November, 1821, six years and four months after Bilbo's bond was used, that it was unpaid, maugre which certificate (also one from his clerk and judge Gibson's testimony,) you plead a decision of this very secretary in bar of an inquiry into the *truth* of his *own written declaration*. This may be right, but it is past my comprehension, and, therefore, if collector Clark is continued in office, I must ask congress to settle the moot point, and whether an *OFFICIAL* assurance is of any validity in this instance, and in one dated 1st September, 1823, relative to the testimony taken on the second examination.

I am, sir, your most ob't. serv't.

R. R. HENRY.



NOTE.—The following paragraphs are selected from the postscript to the letter.

"You will clearly see, sir, that this and my former communications to you are intended for other eyes than your own; indeed I have told you that before, and that they will be used to open collector Clark's case, although "decided" by the treasury department, consequently the more CORRUPT I can, by cases in point, (independently of the St. Marys case,) make the "decisions" of the "constituted authorities" appear to the public, the greater my chance for ultimate justice in the St. Marys case; I have, therefore, named ——— and ———'s cases, and if necessary can give more, (both under the state and general governments,) as you will find by a reference to the letters to president Jackson, which have been suppressed by "undue influence," as they contained some transactions, (both at Washington and Albany,) of the most reprehensible nature, affecting persons in power, as the journals of the houses in both places will show, which, although smothered for a time, will, through party feeling, in all probability see the light before long, if the material suits their purposes, if so it will be perfectly fair to avail myself of such fortuitous circumstances to open inquiry."

"It strikes me, sir, that the course you have adopted in relation to the St. Marys case will not bear examination. I refer you to an *official* letter from secretary Crawford, of 10th November, 1821, (on record no doubt in his office,) that on that day Bilbo's bond was unpaid, but to a request of mine, that you would ascertain whether it was not still unpaid, you plead a decision of somebody in bar of even the inquiry. The mere use for six days of a custom house bond would cause collector Swartwout's instant removal; whereas secretary Crawford certifies in writing to the use of Bilbo's bond for two thousand three hundred and twelve days, (six years and four months,) which bond I aver is still unpaid, as the treasury books will shew; but you refuse to ask the question, as it would open inquiry into other matters, and, therefore, an hermetical seal is put upon the whole: perhaps copies of the letters to you sent on to congress may have the tendency to remove the "Taboo," in case the publication in a pamphlet form does not take place before they meet, which nothing but the want of funds will prevent."

To the Solicitor of the Treasury.

R. R. HENRY.

NEW-YORK, 14th August, 1830.

Sir,

I wrote you on the 6th inst. per mail, in answer to your favor of 2d inst. and to which I refer for particulars.

I now, sir, bring specially to your official knowledge the fact, that the United States revenue boat, General Gaines, of St. Marys, Georgia, Capt. John Stotesbury, master, was HIRED by the collector of that district to Capt. Ramage, of the United States navy, (between 15th September, 1822, and the 8th May, 1823,) as a tender, or pilot boat, whilst Capt. Ramage was employed in surveying that port, which charge I predicate in the following certificate from the Rev. C. Felch, the scientific gentleman employed on that occasion, and as collateral evidence I appeal to the vouchers filed by Capt. Ramage, (who I undersood from Mr. F. acted as purser,) which I have reason to believe will substantiate the truth of his certificate, in the words and figures following, the original of which I stand ready to produce whenever called for.

"On the 15th September, 1822, I applied to Archibald Clark, Esq. collector of customs at St. Marys, for the use of the revenue boat, Captain John Stotesbury, for her assistance in the survey of the harbour, which request was granted, and she continued to assist us until about the 8th May,

1823, while in actual service Capt. Stotesbury received from Capt. Ramage I believe \$1,50 to \$2 per day, as pilot.

(Signed)

C. FELCH."

New-York, March 6, 1826.

As my house overlooked the bay, the vessels entering or leaving the harbour were under view, consequently I saw the revenue boat frequently going and returning from the bar; but as Capt. Stotesbury was a *branch* pilot, I supposed the General Gaines, moving to and fro in the harbour, that Capt. S. was then acting in that capacity, and as he was not at a cent of expense for boat and hands, he had the absolute monopoly of the business, as no other pilot could compete with him at all, he having also the navy and treasury patronage, as U. S. paid for all; but I had no idea Capt. S. was then acting as a tender to the Porpoise and was in the pay of the navy department.

When Mr. Felch mentioned the circumstance to me here, (nearly three years after I left St. Marys,) I could hardly believe him serious until he gave me the facts in writing, when he laughed heartily at "Uncle Sam's" revenue boat being *HIRE*d to "Uncle Sam," (with her entire crew,) by the collector when at Washington, they no doubt thought, (from Mr. Clark's pay rolls, &c.) that the boat and crew were vigilantly employed in their legitimate vocation, preventing *SMUGGLING*, and he had no doubt the collector and captain divided the spoil between them.

After ascertaining at the navy office that there are vouchers from Capt. Stotesbury, (between 15th September, 1822, and 8th May, 1823,) and for what services I take it for granted you will then inquire of the first comptroller, whether there are not vouchers also on file in his office, from Capt. Stotesbury (within the same period,) for pay and rations, as master, when if you find he has been paid, in the double capacity of master of the revenue boat, General Gaines, and master of the tender, alias pilot boat Gen. Gaines, by U. S. you will, I presume, find yourself constrained by a sense of "duty, honor and conscience," to make the fraud known to the President and the Secretary of the treasury instantly, and to Congress in your report, (when they meet,) that they may guard by law against such "improper, incorrect and indiscreet" proceedings in future.

I would also suggest to you the propriety of investigating Capt. Ramage's vouchers to ascertain whether the crew of the revenue boat, alias the tender, alias the pilot boat of the Porpoise, (Gustavus Hall, Wm. and Alexander Clark, the slaves of the collector, and Capt. Stotesbury,) were not also paid for their services, and if so, whether vouchers *signed with the negro's* X (instead of their master's,) was given to Capt. Ramage, as was done between 1818 and 1822. See pay roll, &c. in register's office. *I take it for granted that inquiry in this case is not barred by a "decision" of the "treasury department."*

This, sir, I presume you will admit to be a case of the most fraudulent description, provided you find that Capt. Stotesbury, (with the consent of the collector,) has been paid in a *DOUBLE CAPACITY* by U. S. as master of their own boat, which I have little doubt of, as the motto of both master and man, at St. Marys, (as elsewhere,) is that, "*the public is a goose, and he that will not pluck a feather when opportunity offers, is a fool;*" but perhaps this act of the collector (as others have been,) will be deemed a "venial offence;" such transactions being so common, of which I have given you some cases in point in my letters, particularly in my last, of the 6th inst. relative to the mode and manner of retaining and obtaining office, from Messrs. C. and M. by "*threats,*" which, and other letters to you, I opine some members of congress will have the curiosity to call for next session, as they contain "secrets worth knowing."

I am, Sir, your most obedient servant,

R. R. HENRY.

The Hon. Virgil Maxcy, Solicitor of the Treasury, Washington City.









